

1

2

3

4 SELECT COMMITTEE TO INVESTIGATE THE
5 JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.

8

9

10

11 DEPOSITION OF: MARC SHORT

12

13

14

15 Wednesday, January 26, 2022

16

17 Washington, D.C.

18

19

20 The deposition in the above matter was held in Room 5480, O'Neill House Office
21 Building, commencing at 10:13 a.m.

22 Present: Representatives Lofgren, Schiff, Raskin, Aguilar, Murphy, Cheney and
23 Kinzinger.

1 Appearances:

2

3

4

5 For the SELECT COMMITTEE TO INVESTIGATE

6 THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

7

8 [REDACTED], STAFF ASSOCIATE

9 [REDACTED], DEPUTY STAFF DIRECTOR & CHIEF COUNSEL

10 [REDACTED], ADMIN ASSISTANT AND SCHEDULER

11 [REDACTED] SENIOR LEGISLATIVE COUNSEL

12 [REDACTED], RESEARCHER

13 [REDACTED], SENIOR INVESTIGATIVE COUNSEL

14 [REDACTED], CHIEF INVESTIGATIVE COUNSEL

15 [REDACTED], INVESTIGATIVE COUNSEL

16 [REDACTED], DETAILEE, DEPARTMENT OF HOMELAND SECURITY

17 [REDACTED], CHIEF CLERK

18 [REDACTED], STAFF ASSOCIATE

19 [REDACTED], ADMINISTRATIVE OFFICER

20 [REDACTED], SENIOR INVESTIGATIVE COUNSEL

21 AND OF COUNSEL TO THE VICE CHAIR

22

23

24 For MARC SHORT:

25

- 1 EMMET FLOOD
- 2 RICHARD CLEARY
- 3 Williams & Connolly LLP
- 4 725 Twelfth Street, N.W.
- 5 Washington, D.C. 20005

1

2 Mr. [REDACTED] Good morning, Mr. Short, this is the deposition conducted by the
3 House Select Committee to Investigate the January 6th Attack on the U.S. Capitol,
4 pursuant to House Resolution 503.

5 Mr. Short, could you please state your full name and spell your last name for the
6 record.

7 The Witness. Sure. Marc Timolat Short, last name S-h-o-r-t.

8 Mr. [REDACTED] Welcome, Mr. Short. This will be a staff-led deposition.
9 Members of the select committee are in attendance by video and may choose to ask
10 questions.

11 I'm [REDACTED] -- that's [REDACTED] -- and I'm the Chief Investigative Counsel to
12 the select committee.

13 In the room with me today are [REDACTED] who's a senior investigative counsel;
14 [REDACTED] who's an investigative counsel; [REDACTED], who is counsel to the vice chair,
15 Ms. Cheney; and [REDACTED], who's a senior investigative counsel. All of us are lawyers
16 who work for the select committee.

17 I will be the primary questioner. Ms. [REDACTED] has a few questions, and, as I said,
18 some of our members are joining remotely. I think, specifically, I see the vice chair,
19 Ms. Cheney, Congressman Schiff, Congressman Aguilar, Congresswoman Murphy, and
20 Congresswoman Lofgren are here, able to see and hear and participate via the Webex.

21 Ms. Cheney. Let me just say good morning. Marc, thank you for coming in.
22 Good morning, Emmet.

23 Mr. Flood. Good morning, Congresswoman.

24 Ms. Cheney. Thank you.

25 Mr. [REDACTED] So, before we begin, Mr. Short, I just want to describe a few ground

1 rules. We will follow the House deposition rules that we provided to Mr. Flood, your
2 counsel, previously. Under the House deposition rules, counsel for other persons or
3 government agencies may not attend the deposition. You are permitted to have an
4 attorney present.

5 At this time, Mr. Flood, if you could introduce yourself and your colleague.

6 Mr. Flood. Sure. My name is Emmet, E-m-m-e-t, middle initial T., last name
7 Flood, F-l-o-o-d. I'm a lawyer at Williams and Connolly here in town. And with me is
8 my associate, Richard Cleary, C-l-e-a-r-y, also Williams and Connolly, obviously.

9 Mr. [REDACTED] There is an official reporter. Actually, there will be several official
10 reporters over the course of the day transcribing the record of the deposition.

11 Please wait until each question is completed before you begin your response, and
12 we will try to wait until your response is complete before we ask the next question. The
13 stenographer obviously cannot record nonverbal responses, such as shaking your head.
14 So it's important that you answer each question with an audible verbal response.

15 We ask that you provide complete answers based on your best recollection. If
16 the question isn't clear, please ask for clarification. And, if you don't know the answer,
17 then simply say so.

18 You may refuse to answer a question to preserve a privilege recognized by the
19 select committee. If you refuse to answer a question based on a privilege, staff may
20 either proceed with the deposition or seek a ruling from the chairman on the objection.
21 If the chairman overrules the objection, then you are required to answer the question.

22 I think for purposes of today, in discussions with Mr. Flood, we do not intend to
23 seek a ruling from the chair and proceed to force you to answer questions over objection.
24 The goal is to ask questions, decide whether any of them implicate a privilege, have you
25 state that, and that will then be a predicate for subsequent discussion.

1 I also have to remind you -- and this is not specific to you, Mr. Short, but it's
2 something we tell all witnesses -- that it is unlawful to deliberately provide false
3 information to Congress.

4 Since this deposition is under oath, would you please stand, raise your right hand
5 to be sworn.

6 The Reporter. Do you solemnly declare and affirm under the penalty of perjury
7 that the testimony you are about to give will be the truth, the whole truth, and nothing
8 but the truth?

9 The Witness. I do.

10 EXAMINATION

11 BY MR. [REDACTED]

12 Q All right. Thank you, Mr. Short.

13 So, again, if you -- if I don't ask a clear question -- I want to make sure you
14 understand it before you answer -- just tell me, and I'll try to rephrase.

15 If you ever need to consult with Mr. Flood, please do, either briefly informally or if
16 we need a break. Completely up to you to determine the pace and the schedule. If
17 you need to take 5 minutes or longer, just say the word, and we'll do that.

18 Let me start then with exhibit 1 in your binder, if you could turn to that. That is
19 the subpoena to you that is dated November 22nd of 2021. Do you understand that you
20 are here testifying in this deposition pursuant to that subpoena?

21 A Yes, I do.

22 Q Okay. Now, how I intend to proceed, Mr. Short, is I want to do something a
23 little bit out of order. When you're reading a book or going to the movies, you usually
24 sort of build up to the climax. I'm going to start with that. I think we need to talk
25 about January 6th, the day first. A lot happened that day, a difficult day for you.

1 I want to start with that and go through your day on January 6th right at the
2 beginning. There will be some parts of that that will need further clarification later, but
3 I'd kind of like to start with the day and then go back to some of the context in which
4 those events arose.

5 But, before that, let me just get to a little bit of personal background for you on
6 the record. First of all, tell us where you went to school.

7 A For college?

8 Q Yes.

9 A I went to Washington Lee University for undergraduate and, fortunately,
10 University of Virginia for my master's in business.

11 Q When did you graduate from Darden?

12 A I graduated in 2004 --

13 Q Okay. After your business school, what did you do for a living? Tell us a
14 little bit about the jobs you had.

15 A I worked at the Department of Homeland Security as a political appointee
16 right out of business school and was there through 2006. Subsequent to that, I took a
17 job working for Kay Bailey Hutchison, the United States Senate, first as a deputy chief of
18 staff and then subsequently as her chief of staff.

19 From there, I became chief of staff for the House Republican Conference, at the
20 time chaired by Mike Pence. For a few years subsequent to that, about five, I was
21 working as president of a group called Freedom Partners, and it was set up as a 501(c)(6)
22 chamber of commerce, and then was a consultant on the campaign in 2016 when Mike
23 Pence was tapped to be the Vice Presidential pick. And then, once the administration
24 was inaugurated, I assumed the role of legislative affairs director to President Trump.

25 Q 2017?

1 A Yes. January 2017 from the start through the summer of 2018. And then
2 I had about a 6-month sabbatical and had a position at the University of Virginia at the
3 Miller Center in addition to doing some of my own consulting.

4 And about 6 months later, there was a change of staff in the Vice President's
5 office, and we had conversations about coming back in. And so I think it was in March
6 of 2019 I came back in as chief of staff to Vice President Pence through the end of the
7 term.

8 Q You stayed all the way through January 20th --

9 A Yes, sir.

10 Q -- of 2021. Okay.

11 What are you now doing since you left, since the administration ended?

12 A I am consulting predominantly on a political basis. I get to do a little bit of
13 teaching these days down at Liberty University and have some public speaking
14 engagements as well.

15 Q Great. I also note now that Congressman Kinzinger has joined us as well.

16 So let's talk about January 6th.

17 I want to ask you to turn in your binder to exhibit 28. This is a tweet that
18 President Trump issued at 6 a.m. on January 6th, and it says: If Vice President Mike
19 Pence comes through for us, we will win the Presidency. Many States want to decertify
20 the mistake they made in certifying incorrect and even fraudulent numbers in a process
21 NOT approved by their State legislators (which it must be). Mike can send it back!

22 The morning of January 6th, Mr. Short, did you see this tweet?

23 A Many of my mornings began seeing tweets in the administration. I
24 don't -- can't sit here and tell you that specifically this is one that I recall from that day.
25 I'm sure that I probably did, but I can't sit here and tell you that's my recollection today.

1 Q Okay. Do you remember discussing this particular tweet with the Vice
2 President?

3 A No, I do not.

4 Q The next exhibit is 29, which is issued just 2 hours -- a little over 2 hours
5 later, another tweet from the President: States want to correct their votes, which they
6 now know were based on irregularities and fraud, plus corrupt process never received
7 legislative approval. All Mike Pence has to do is send them back to the States, AND WE
8 WIN. Do it, Mike, this is a time for extreme courage!

9 Do you recall seeing that tweet on the morning of January 6th?

10 A Again, I'm confident that I would have, but there is no specific recollection
11 about that or conversations subsequent to that about that tweet.

12 Q Okay. So, when you ultimately -- we'll talk about your morning, but when
13 you get together with Vice President Pence, was there any discussion of --

14 A I don't recall discussion about this tweet.

15 Q When did you first get together with the Vice President that morning,
16 approximately what time?

17 A I came into the White House that morning, probably at about dawn or
18 maybe before, and was in my office for a little bit and then went up to the Vice
19 President's residence. I would guess 8:30, 9 o'clock is when we journeyed up.

20 Q Yeah. What was the purpose, Mr. Short, of going first to your office before
21 going to meet with the Vice President?

22 A It could have been a lot of reasons. Sometimes it was just to check in and
23 make sure that -- as the chief of staff, it's my job to make sure the staff was assigned to
24 their roles, and it could have been just checking in. But I also was -- I believe we took
25 communal transportation up to the Vice President's residence. So I believe that that

1 morning, if I recall, I probably went with Greg Jacob and Chris Hodgson. So we took one
2 vehicle. So there was a purpose in going there, so we'd be in one vehicle to transport
3 up.

4 Q I see. Was that typical? Did you normally start your days that early at the
5 White House during the time that you were the Vice President's chief of staff?

6 A Sure. I usually was there for -- I was one of the few who received individual
7 security briefings, and I usually preferred to do those before our day started at 8. So I'd
8 usually be there around like 7:30 for that briefing.

9 Q I see. Where specifically in the White House complex was your office?

10 A So I had a facility in the Executive Office Building. Most of the Vice
11 President's staff was over there. And so that was -- that was the place we would be with
12 the staff. But then I also had a small facility in the West Wing right off the Vice
13 President's office.

14 Q I see. So two, your main office over in the old Executive Office Building and
15 then a smaller office in the West Wing?

16 A Yes.

17 Q Okay. And your title -- didn't you also have a sort of assistant to the
18 President title in addition to being the Vice President's chief of staff?

19 A Yes. I was also an assistant to the President.

20 Q Okay. So you said it was around 8:30 that you took a communal --

21 A That's my best guess. It was early. It was relatively early in the morning
22 that we -- that we took a vehicle up to the residence.

23 Q Okay. Tell us what happened once you arrived at the Vice President's
24 residence.

25 A As would often be the case, I recall that, knowing it would be an important

1 day, we gathered in prayer. And often that would be something that a staff member
2 would lead. So it would have just been at that time, I believe, the Vice President,
3 myself, Greg and Chris. And we would just ask for guidance and wisdom, knowing that
4 the day was going to be a challenging one. And --

5 Q You mentioned Greg and Chris. Tell us who they are and what their roles
6 are.

7 A Greg Jacob was counsel to the Vice President. Chris Hodgson was head of
8 Legislative Affairs for the Vice President.

9 Q So it was the three of you, staff, plus the Vice President, the four of you?

10 A Correct. Correct.

11 Q Okay. So it started with a prayer?

12 A Correct.

13 Q And then subsequently --

14 A Whether it started with prayer, we -- at some point we would have prayed
15 for wisdom that day. And I think that's probably how we started, yeah.

16 Q Okay. The business of the day was?

17 A The business of the day, we were -- at that point, we were finalizing a letter
18 that the Vice President would release publicly later in that day. So we were making final
19 tweaks to that together.

20 Q Tell us about the process of that. Did someone have it up on a laptop, and
21 who was sort of primarily responsible for drafting the letter?

22 A I don't -- I'm sure there was a laptop. I don't recall specifically that, but
23 Greg would have been point on drafting that.

24 Q Do you remember early that morning a phone call, either to or from the
25 White House and President Trump, between the Vice President and President Trump?

1 A There was a phone call from the President, and the Vice President excused
2 himself to take that call upstairs in his residence.

3 Q I see. All right. Let me turn to page -- to exhibit 30 in your binder and the
4 second page of that. This is a Presidential call log from the White House switchboard.
5 And at the very top of page 2, it indicates that, at 9:02 a.m., the President instructed the
6 operator to call back with the Vice President. And then, a couple of lines down, it
7 indicates at 9:15 the operator informed the President that a message was left for the Vice
8 President at 9:15.

9 Do you remember any discussion, Mr. Short, early during your time at the
10 residence that the President wanted to reach Vice President Pence?

11 A No. The only -- the only recollection I have is at some point during our
12 meeting a military aide knocked on the door and said the President was holding for the
13 Vice President, at which point he excused himself to take the call.

14 Q I see. And you said he went upstairs, so he was out of your earshot.

15 A Correct.

16 Q Okay. After he -- how long did the conversation -- or how long was he
17 gone?

18 A My best guess would be 15, 20 minutes.

19 Q Upon his return, did he share any details of the conversation with you?

20 A No.

21 Mr. Flood. Take your time. That was a yes or no, and you answered it.

22 BY MR. [REDACTED]

23 Q What was his demeanor when he returned?

24 A I think that the Vice President was focused on what we had to do as our
25 office that day. And so it was finishing, finalizing the letter and moving forward

1 with -- with our plans for the day.

2 Q Did he seem in any way different emotionally than he had when he -- before
3 the call started?

4 A No. I don't think that the fact that at that point there was a disagreement
5 as to how that day would play out was news to any of the principals in that conversation.
6 So I'm sure that there would have been a frustration of having the conversation yet again,
7 but no, I don't -- I didn't recognize any visible difference in the Vice President.

8 Q I see. So fair to say your understanding is that this conversation, whatever
9 it was, was not new. It was reiterating positions that each of them had taken
10 previously?

11 A Yes.

12 Q Okay. About how long had you been there, Mr. Short, when this
13 conversation took place, roughly? I may ask you a lot of questions about timeframes.
14 If you don't specifically recall, I understand. Just give me your best guess.

15 A A lot transpired that day, so my best guess is we were probably there 45
16 minutes or so before the interruption of the call.

17 Q I see. I want you to turn in your binder to the next exhibit, which is 31.
18 This is an email that you, through counsel, produced to the select committee, which looks
19 to be forwarding an email that you personally, Mr. Short, received from Molly Michael on
20 Wednesday, January 6th, at 9:36 a.m. with the simple two words "passing along."

21 And then it indicates that Ms. Michael is passing along a message from Rudy
22 Giuliani's associate, Maria Ryan: Per Rudy, please print for POTUS to share with VP at
23 breakfast meeting.

24 Do you recall getting this email from Ms. Michael at 9:36 in the morning on the
25 6th?

1 A I'm aware that I provided some documents upon subpoena from the
2 committee, and this was one of the few that I recall having. But, no, I don't recall any
3 specific conversations with the Vice President about this particular email.

4 Q Okay. The next tab is 32, which is the attachment to that email, again,
5 provided by your counsel. It looks like it's a letter on the letterhead of the Arizona
6 House of Representatives signed by a number of Arizona legislators, which is called
7 "Reclamation of Electoral College Electors from Arizona," and it puts forth a theory about
8 asking the Vice President -- I can actually turn you to the third page of the letter that has
9 the specific ask.

10 It says: We respectfully ask that you recognize our desire to reclaim Arizona's
11 electoral college electors and block the use of any electors from Arizona until such time as
12 the controversy is properly resolved through the pending litigation or a comprehensive
13 forensic audit.

14 So Ms. Michael sends you this letter asking the Vice President to delay
15 certification of the Arizona electors. Did that prompt discussion or reassessment of the
16 Vice President's intention over the course of the day?

17 A No. We had deliberated these issues.

18 Q Much like the phone call, this didn't move the needle. These are issues
19 that had been fully developed in advance?

20 A Yes.

21 Q Okay. Tell me who Molly Michael is.

22 A Molly was an assistant to the President.

23 Q Okay. Would she have ever sent something to you, in your view, based on
24 her role, by her own volition, or was she only doing what she was asked to do by the
25 President or others close to him?

1 A I can't answer I think her intentions of sending things to me. I think I would
2 have assumed that it could have been either. There were some times I think she said:
3 I'm passing this along on behalf of the President.

4 But certainly there were other times when she would be managing, say, the
5 President's schedule and would say: You know, Marc, do you know if the Vice
6 President's around at this time?

7 So it could have been -- it could have been both examples.

8 Q I see. Okay. But her role, essentially, was as an executive assistant to the
9 President?

10 A Yes.

11 Q She wasn't a substantive decisionmaker involved in strategy decisions?

12 A I don't want to suggest that her role wasn't substantive, but -- but I think
13 that I take it, at face value her, note that she's -- I think she said, "pass this along at the
14 request of the President" -- I would take that at face value.

15 Q Okay. The email indicates: Please print for POTUS to share with VP at
16 breakfast meeting.

17 Do you know what the breakfast meeting is?

18 A There was no breakfast meeting that day.

19 Q Okay. Now, the next exhibit in line is 33, and this is another White House
20 document. It's a daily diary.

21 Is it your understanding, Mr. Short, from working in the White House, that there is
22 a diarist who actually prepares a sort of minute-by-minute accounting of the President's
23 day each day?

24 A It's not a surprise to me, but it's not something I've seen before.

25 Q Okay. So you haven't seen this or similar documents?

1 A Correct.

2 Q Well, on the third page of that document, at the very top, at 11:17, it
3 indicates: The President talked on a phone call to an unidentified person.

4 Reconstructing the testimony from other witnesses, that seems to us to be the
5 time in which he spoke to the Vice President. Does that roughly coincide with your
6 sense of the timing?

7 A I would -- that would make sense to me.

8 Q Okay. And that's the call that you described for which you were not
9 present?

10 A Correct.

11 Q Okay. Just to sort of complete this, the next tab is No. 34. This is another
12 White House document that indicates at the very top in handwriting: 11:20 call with
13 VPOTUS.

14 Again, is that consistent, roughly, with the timing, your understanding of when
15 that phone call between the President and the Vice President took place?

16 A No, it makes sense.

17 Q Okay. Now, I understand that you weren't on the call, but I just want to
18 read you something that was quoted in Bob Woodward's book "Peril," that he indicated
19 in "Peril" that the President said: If you don't do it, I picked the wrong man 4 years ago.
20 The President said: You're going to wimp out. He reportedly said to the Vice
21 President: You can be a hero, or you can be a pussy.

22 Do those -- do you have any recollection of having the Vice President recount to
23 you those words from the President?

24 A No.

25 Q In your involvement, Mr. Short, in discussing these issues and understanding

1 the disagreement between them, would that sentiment from the President be consistent
2 with his attitude about the Vice President's power on January 6th?

3 A I've read subsequently that that conversation was on a speakerphone on the
4 President's side, so I'm sure there are people that are far better prepared to answer that
5 question than I am. The Vice President did not share specifics of that conversation with
6 me.

7 Q Yeah. But, if the President -- again, I know you weren't there -- said,
8 "you're going to wimp out, I picked the wrong man 4 years ago," would words like that be
9 consistent with your understanding of the President's position on the morning of January
10 6th?

11 A I think the President's position was pretty clear, and I think he articulated in
12 his own public statements at the rally and subsequent tweets or tweets before the rally.
13 So I don't -- I think that his position is well-known, and I'm not sure how much I can add to
14 that.

15 Q Tell me more about the Vice President's reaction to that position. These
16 are strong words, and it's a strong disagreement.

17 How did Vice President Pence feel, react to that strongly held view from the
18 President?

19 A I think the Vice President was proud of his 4 years of service, and he felt like
20 much had been accomplished in those 4 years. And I think he was proud to have stood
21 beside the President for all that had been done.

22 But I think he ultimately knew that his fidelity to the Constitution was his first and
23 foremost oath, and that's -- that's what he articulated publicly and I think that that's what
24 he felt.

25 Q His fidelity to the Constitution was more important than his fidelity to

1 President Trump and his desire?

2 A The oath he took, yes.

3 Q Yes. Did it cause him consternation? Did it cause him stress? Did it
4 cause him pain, in your observation?

5 A Well, I think -- I think that, in their 4 years of partnership, they accomplished
6 a lot together for the country. And so sure, I think that they'd worked closely together
7 and had developed a friendship. And so -- and I think any time you're in that sort of
8 situation, I can only imagine that their having a conflict would be something that would
9 be something that's not you're comfortable with.

10 But, again, I think that the Vice President really was not wavering in his
11 commitment to what he -- what his responsibility was. And so, yeah, was it -- was it
12 painful? Sure. But was it also something he knew what his responsibility was? Yes,
13 he did.

14 Q That morning, what expectations did you have about protest activity or
15 crowds potentially at the Capitol?

16 A I didn't, to be honest. I knew that there was a rally down on the Ellipse, but
17 to what extent there would be protests at the Capitol, I didn't have one expectation or
18 another.

19 Q Had you had conversations with Mr. Gables or the other Secret Service
20 agents about expectations of protest activity?

21 A I'd had conversations with Tim on the day of the 5th. I don't think they
22 were specific to protest activity.

23 Q Okay. Tell us more about the conversation with Tim, Tim Gables, who
24 was -- he was the head of the Vice President's security detail?

25 A Yes.

1 Q Tell us a little bit more about that conversation.

2 A Tim was head of the Vice President's detail. He probably -- Hector
3 preceded him. I think Tim had been there maybe 9 months, maybe 12 months. I
4 forget exactly. I think we had a very good working relationship and one that confided in
5 each other. And he asked for whenever I knew of something to make sure he was
6 alerted.

7 I think, at this point, he did become very clear of the public differences. And so,
8 on the 5th, I'd asked him to come to my office, which was my smaller office in the West
9 Wing. And I said to him that I would expect the President to express his disagreements
10 publicly and to make sure that his team was aware of that.

11 Q And would that have a potential impact on security or threats, the kinds of
12 things that Agent Gables needed to be aware of?

13 A I don't know. I think that Tim and Max's team were always prepared.
14 And so I think they did an outstanding job that day. I think they always did.

15 Q Yeah.

16 A But I think it was my job if I had a concern to make sure it was raised with
17 him. And so, on the 5th, I had informed him of at least that concern, to make sure that
18 he was prepared for any potential activities that could -- that that could trigger.

19 I can't sit here and tell you in any way that I would have anticipated an attack on
20 the Capitol or could foresee that, but would it be in the best interests of the head of the
21 Vice President's detail to be aware that the disagreements between the two are going to
22 become public? Yes. Yes.

23 Q And it's important that the Secret Service know that, because the
24 disagreements that would go public might have an impact on the Vice President's and
25 others' security. Is that fair to say?

1 A My concern was for the Vice President's security, and so I wanted to make
2 sure the head of the Vice President's Secret Service was aware that likely, as these
3 disagreements became more public, that the President would lash out in some way.

4 Q Do you know whether or not Agent Gables, either in the meeting with you or
5 otherwise, used that information to inform security?

6 A I do not know.

7 Q Did he mention anything about, well, in that event, I need to do something?

8 A He did not.

9 Q Okay.

10 A Not that I recall.

11 Q When you were at the residence on the morning of the 6th, what was your
12 personal expectation, Mr. Short, about the prospect of protest activity or whether or not
13 this disagreement was going to somehow affect you over the course of the day?

14 A Honestly, I wasn't. I mean, I assumed there would be activity, but I also
15 assumed that the Capitol would be a protected space. And I knew that -- you know, I
16 had enormous confidence in our Secret Service detail. And so that was not really one of
17 the considerations and factors for me.

18 Q Okay. When you're at the residence, you indicated that there was
19 continuing work on this letter that the Vice President was drafting. Was it finished, sort
20 of locked and ready to go?

21 A It was pretty close, yeah.

22 Q Okay. And that was a joint effort of the four of you, you, Greg, Chris and
23 the Vice President?

24 A I would really say it was the three of us. Chris was phenomenal at his job,
25 but, at that point, his job was to help us in that day and in the legislative process, and his

1 was going to be to make sure that letter got out to every Member.

2 Q I see.

3 A So his involvement was less in the development and content of the letter.

4 It was in the delivery of the letter.

5 Q The letter actually is a Dear Colleague Letter, right? It's a letter that is
6 purportedly addressed to the Members of Congress?

7 A Correct.

8 Q And that's what makes Chris, who's the legislative guy, makes it his --

9 A Yes, correct.

10 Q All right. So, again, the letter is finished at the residence. It's done, ready
11 to be delivered at the appropriate time.

12 A As with all elected officials, it's never done until it actually hits send, but --

13 Q Not just elected officials.

14 A Probably true.

15 Q What was the plan for the timing of the distribution of the letter?

16 A Our intention was to make sure it was distributed well before 1 o'clock,
17 when the joint session convened. But I think the Vice President did not want to send it
18 while the President was still speaking, as a matter of courtesy and respect.

19 But the President I believe -- I believe -- so I think this call time is correct, but I
20 believe that the rally time he was supposed to speak was like 11 to 12. And so he
21 ultimately didn't take the stage until much later, and he was still speaking.

22 And, at some point, we felt like it's important that this get out before 1 o'clock and
23 we can't wait for him to finish. And so, roughly at about 12:40, 12:45, it was distributed.

24 Q Let's walk through that. About when did you leave the residence in a
25 motorcade to go to the Capitol?

1 A I would say it was about noon. That's my best recollection.

2 Q Who was in that motorcade with you and the Vice President?

3 A I was in the vehicle with the Vice President. I assume that there was a staff
4 car. There usually is in the motorcade. I'm assuming that Greg and Chris were in that
5 vehicle. There may have been others.

6 Q Okay. How about his family?

7 A His family would have been in a separate vehicle, Mrs. Pence and Charlotte
8 Pence.

9 Q In a separate vehicle, not the one in which you and the Vice President were
10 riding?

11 A Correct.

12 Q Okay. Do you remember on the way to the Capitol complex seeing crowds
13 or seeing rallies or protests?

14 A I do not. As you likely know, Secret Service has many different routes they
15 can take. So they would have been aware of the activity down along Constitution
16 Avenue. So they took us a different route that day.

17 Q Yeah. Exhibit 35 gives us an indication of the timing of the release of the
18 letter. If you could turn to that in your binder. That is a tweet to which the letter, the
19 Dear Colleague Letter is attached, which was sent on January 6th at 1:02 p.m.

20 Is that roughly consistent with your recollection, Mr. Short, that the Vice President
21 wanted this out before the convening of the joint session and, even though the President
22 was still speaking, issued the tweet and the letter at that time?

23 A It's my belief the letter preceded the tweet. So it's my belief the letter
24 was -- was physically distributed on the floor as Members came in. It also would have
25 been distributed to their inboxes via email probably around 12:45.

1 Q Got it. Okay. The next exhibit is the letter itself. You can turn to that.
2 It's exhibit 36.

3 Is this the Dear Colleague Letter that you and Greg and Chris and the Vice
4 President had been working on in the days before and on the morning of January 6th?

5 A I'm sure it is. I can read through it if you would like, but I'm sure it's the
6 same.

7 Q No. There are only a couple things that I wanted to highlight in it. It
8 speaks for itself. But, at the very top of page 2, the second full sentence says: I do not
9 believe that the Founders of our country intended to invest the Vice President with
10 unilateral authority to decide which electoral votes should be counted during the joint
11 session of Congress, and no Vice President in American history has ever asserted such
12 authority.

13 To me, the headline there is that the Vice President concluded he does not have
14 the unilateral authority to decide which votes should be counted during the joint session
15 of Congress, consistent with your discussions, your preparation, and that was his bottom
16 line?

17 A I'm not a lawyer, but it's always my belief that the notion that our Founders
18 would have invested any one person with that authority would run counter to the
19 founding of our country.

20 And so, yes, that was a pretty consistent straightforward line, and I think it's
21 certainly obvious that no Vice President before. And I think that those who would
22 advocate that Vice President Pence had that authority would be probably less
23 enthusiastic about Vice President Harris having that authority in 2024.

24 Q He amplifies it just a couple of -- the third paragraph: It is my considered
25 judgment that my oath to support and defend the Constitution constrains me from

1 claiming unilateral authority to determine which electoral votes should be counted and
2 which should not.

3 Again, is it fair to say, Mr. Short, that that was sort of his bottom line, that he does
4 not have authority to unilaterally determine which votes should be counted and which
5 should not?

6 A Yes.

7 Mr. [REDACTED] Okay. Before we leave the letter, I understand Ms. Cheney has a
8 couple of questions about it.

9 Ms. Cheney, please.

10 Ms. Cheney. Thank you, [REDACTED]. I actually -- thank you, Marc.

11 I just wanted to go back to something you mentioned earlier. Did the President
12 and the Vice President have regular breakfasts together?

13 The Witness. They did not. They had a weekly lunch, but the breakfast was not
14 something that would -- that would have been incredibly infrequent.

15 Ms. Cheney. Okay. And so, when you mentioned that there was no breakfast
16 meeting on the 6th, had there been a meeting scheduled that was then removed from
17 the schedule?

18 The Witness. Not that I'm aware, no.

19 Ms. Cheney. So, when you got this email suggesting that the document should
20 be shared with the Vice President at the breakfast meeting --

21 The Witness. It would not have been the first email from Rudy Giuliani
22 associates that would have been mistaken.

23 Ms. Cheney. Okay. So it wasn't -- to your knowledge, there was not a meeting
24 on the schedule that was moved.

25 The Witness. Not -- not that I'm aware.

1 Ms. Cheney. Okay. Did the President and the Vice President talk at all that
2 morning besides the call that Mr. [REDACTED] mentioned to you?

3 The Witness. I believe that was their only call that morning.

4 Ms. Cheney. Okay. Thank you.

5 Mr. [REDACTED]. Any other members have questions about the letter before we
6 proceed through the day? Anyone?

7 [REDACTED], did you have something else? Go ahead.

8 Mr. [REDACTED] Sure.

9 BY MR. [REDACTED]:

10 Q Mr. Short, you mentioned that the President's position was clear, and
11 certainly his general position that he wanted the Vice President to take some action was
12 clear.

13 But I just wanted to get a little better understanding of what exactly the President
14 was asking the Vice President to do because in the letter we just went through, the Vice
15 President wrote: Some believe that, as Vice President, I should be able to accept or
16 reject electoral votes unilaterally.

17 But the tweets we went through earlier make reference to, you know, "Mike can
18 send it back."

19 So what was your understanding of exactly what the President at that point
20 wanted the Vice President to do?

21 A There had been I think a few weeks of discussion about the Vice President,
22 some I think mistaken theories the Vice President has unilateral authority to reject
23 electors. I think that position is laid out in other communications from other lawyers
24 that represented the President's team.

25 Subsequent, somewhere probably around the 5th, I think it became clear that the

1 Vice President did not think he had that authority and would not execute a discussion to
2 unilaterally reject electors.

3 And, at that point, there seemed to be a pivot to say, well, maybe you'd entertain
4 the notion of just sending them back. And I recognize there were other lawyers who
5 had argued that earlier.

6 But it was my opinion that the President's viewpoint shifted somewhere toward
7 the end of this time period. So those tweets that you referenced, [REDACTED], are a revised
8 appeal to the Vice President. Instead of rejecting them, would you send them back to
9 the States.

10 Q And then Mr. [REDACTED] asked you about some quotes that have been publicly
11 reported from what President Trump allegedly said to the Vice President in that phone
12 call on the morning of the 6th. And I know you said that the Vice President at that time
13 did not tell you about the conversation they had, but did Vice President Pence ever later,
14 after these reports came out, such as the books, did Vice President Pence ever tell you
15 whether those reports about that phone call were accurate?

16 A I never felt the need to ask specifics on that, and I don't think he ever felt the
17 need to divulge specifics on that conversation.

18 Q So, no, he didn't tell you whether it was accurate?

19 A He has not specified the accuracy on that call.

20 BY MR. [REDACTED]

21 Q But just to pick up on that, Mr. Short, was it your impression that the Vice
22 President had directly conveyed his position on these issues to the President, not just to
23 the world through a Dear Colleague Letter, but directly to President Trump?

24 A Many times.

25 Q And had been consistent in conveying his position to the President?

1 A Very consistent.

2 Mr. [REDACTED] Okay. All right. Any other questions on the letter?

3 BY MR. [REDACTED]

4 Q Okay. Then I want to move on into the day.

5 Now that you're in the Capitol, it looks like the President began his speech on the
6 Ellipse at about noon. Then, at about 12:30, the President's supporters begin to
7 assemble at the Capitol. While he's still speaking, there's a crowd gathering at the
8 Capitol. At almost exactly 1 o'clock, Mr. Short, from video, Senators and the Vice
9 President are entering the House Chamber where the joint session is convened.

10 The Vice President shortly after 1 o'clock opens, and he reads a script about
11 ascertainment. There's been a lot of discussion about this. And I actually want to play
12 for you a clip of what the Vice President said at the beginning of the joint session and
13 compare it to what other Vice Presidents have said at the beginning of the session.

14 So, if we could turn to the screen, we've got a clip that I want to ask you some
15 questions about after.

16 [Video played.]

17 BY MR. [REDACTED]

18 Q All right. So, obviously, Vice President Pence in 2021 alters, amplifies, adds
19 language to the script that had been read by Vice Presidents reaching back 20 or 30 years.
20 Tell us about the decision, the purposeful decision by Vice President Pence to add that
21 language to the ascertainment script.

22 A Well, I should say that these scripts were coordinated with the
23 Parliamentarian to make sure they were in accord with regular -- whatever the House and
24 Senate rules require. But the predominant reason was that the Vice President wanted
25 to be as transparent as possible because, to the previous exhibit you asked me to look at,

1 there -- we were aware of some discussions to suggest that there were other slates of
2 electors that were being considered or were being put forward.

3 But it's very clear that the statute requires them to have been certified by the
4 State. And, since there were no other slates that had been certified, the Vice President
5 was trying to be as transparent as possible to say: These are the slates that have been
6 certified, and none other have. And I think he felt that in some ways this would be, for
7 those watching at home, an explanation of what this process is and what his role is.

8 Q Understood completely. So he adds language about the certificates
9 purporting to be a return from the authority of the State. It's an important fact that
10 only such electors that are certified by the authority are the ones that are valid or that
11 should be counted.

12 A Correct.

13 Q And he's telling that to the joint session but also to a broader audience to be
14 transparent?

15 A Yes.

16 Q We're going to talk about the meeting with the Parliamentarian. Fair to say
17 that he's not making this up. This is the product of discussion with the Parliamentarian,
18 his own staff, history? He's trying to get it right?

19 A Yes.

20 Q Okay.

21 A Not just try to get it right, but, again, be explanatory for people who may
22 otherwise be confused.

23 Q I see. Fair point. Not just do it right, but tell the world precisely what he's
24 doing.

25 A Yes.

1 Q Okay. Now, as the Vice President is reading this script, the President is still
2 speaking. His speech doesn't end until approximately 1:10 p.m. And, at 1:12, just 2
3 minutes later, Representative Gosar and Senator Cruz object to the slate of electors from
4 Arizona, right?

5 Do you recall that the initial objection --

6 A Yes.

7 Q -- alphabetically comes to the electors from Arizona?

8 A Yes.

9 Q What does that then lead to, again, in walking through the Electoral Count
10 Act process, that the Vice President must do when there's an objection?

11 A Well, it's assuming the objection is matched in letter form from a Senator.
12 Then the two Chambers adjourn to their respective Chambers and have a debate about
13 that State for 2 hours.

14 Q Got it. So is that what happened?

15 A Correct.

16 Q That, upon the objections lodged by Gosar and Cruz, one House, one Senate,
17 the two sides adjourn to their respective Chambers to debate the certificate of Arizona?

18 A Yes.

19 Q Okay. And where does the Vice President go during that time?

20 A He is President of the Senate. So he assumed his role as -- in the chair of
21 the Senate.

22 Q To preside over the debate in the Senate?

23 A Yes.

24 Q I see. Now, as that's going on, Mr. Short, this debate in the Senate
25 Chamber with the Vice President presiding, rioters break into the Capitol. From the

1 time-stamped video, it looks like 2:13 p.m. is when there's a breach on the west side of
2 the Capitol for the first time.

3 And literally that same minute, 2:13, the proceedings on the Senate floor cease.
4 There's essentially a security: We need to adjourn right now; there's a security threat.

5 Tell us what you recall about that moment when the session was adjourned.
6 Were you getting your lunch at that point, or were you up closer to the Senate Chamber?

7 A As we've discussed, I started the morning early, and, unfortunately, had not
8 had lunch. And I eat a lot. And so, at that point, when the Vice President had resumed
9 his position in the Senate, I felt like I had 2 hours.

10 Q You have a break.

11 A So I escaped down to the basement of the Capitol to Senate carry out to
12 order a cheeseburger. That's where I was when it all happened.

13 Q I see. You're in line waiting for your cheeseburger when all hell breaks
14 loose in the Capitol.

15 A At that point, police were running by, and they asked us to evacuate. And
16 so I went back upstairs. Rather than evacuating, I went back upstairs and met the Vice
17 President in the ceremonial office off the Senate floor.

18 Q No cheeseburger?

19 A I never got my cheeseburger.

20 Q So tell us when you went back up. Just walk us through sort of minute to
21 minute. What happened?

22 A Well, I mean, at that point, the Vice President was at his desk. The Second
23 Lady was in the office. As I recall, Congressman Greg Pence was in the office. And I
24 think it was more of a just -- an uncertainty about is this a temporary pause or is it
25 something more significant.

1 █████, the head of Secret Service, had come in and said: We're going to need to
2 evacuate.

3 It's my understanding he had done that once before when I was not there. And
4 the third time he came in, it was -- it was less of a question. It was a statement of fact
5 that "we're moving you." And the Vice President had been reluctant to leave that
6 space, because he said to █████: I'm not leaving the Capitol. And --

7 Q Why was that important to him? Did he tell Gables or you?

8 A Yeah. No. The reason was he felt like, for the world's greatest
9 democracy, to see a motorcade, a 15-car motorcade fleeing the Capitol would send all the
10 wrong signals. So he was adamant to say: I want to stay here in the Capitol.

11 And I think █████ understood that, but he said: At this point, I can't protect you
12 behind these glass doors, and so I need to move you.

13 And that began our evacuation from the Senate Chamber.

14 Q That happens at 2:22.

15 A Roughly.

16 Q So only -- it looks like the Vice President and his family are only in that
17 ceremonial office for 9 or 10 minutes when Gables imposes upon you, "Hey, we need to
18 move out of this office."

19 A Correct.

20 Q And you were with him by this point in the ceremonial office for the
21 transport?

22 A Yes.

23 Q And we've seen video of the Vice President and his family leaving the area of
24 the Senate Chamber and going to this secure location. So tell us roughly where it was,
25 the place to which they moved you and the Vice President and his family?

1 A Well, I -- I ask your discretion on this because [REDACTED] has always been more
2 careful to say this is a classified location because it's where we take other Presidents in
3 the State of the Union. And I know it's been reported elsewhere so --

4 Q Yeah.

5 A But I don't know to the extent this is a classified setting.

6 Mr. [REDACTED] It is not.

7 BY MR. [REDACTED]

8 Q It is not a classified setting.

9 Is it fair to say that it was sort of down underground --

10 A Yes.

11 Q -- in a sort of loading dock area?

12 A That is fair to say.

13 Q Okay. Now, we have received other testimony, Mr. Short, that, in the
14 White House, at right around 2 p.m., as soon as the rioters breached -- and this is all
15 unfolding on live television -- that Mark Meadows, the White House Chief of Staff, was
16 notified of this and goes to the Oval Office to encourage the President to send a tweet or
17 to do something to discourage the violence. And there are chants at this point outside
18 of "hang Mike Pence."

19 Mr. Meadows goes to the Oval Office to encourage the tweet. And, at 2:24, just
20 several minutes later, exhibit 37, the tweet that emerges from the President says: Mike
21 Pence didn't have the courage to do what should have been done to protect our country
22 and our Constitution, giving States a chance to certify a corrected set of facts, not the
23 fraudulent or inaccurate ones which they were asked to previously certify. USA
24 demands the truth!

25 2:24 p.m., as the Vice President is being rushed to a protected secure location

1 because of an attack on the Capitol, the President tweets that.

2 Do you remember seeing that? What was your reaction?

3 A I remember seeing it, but did not see that in real time. I think, at 2:24,
4 whatever time this is, certainly our focus was elsewhere. And I think it was ensuring
5 that everybody else in our party was safe. And the Vice President was quick to want to
6 call other Members of leadership to make sure that respective House Members and
7 Senate Members were safe as well.

8 So I do recall seeing this subsequently but not in real time.

9 Q When you saw it, Mr. Short, what was your reaction?

10 A Reaction? Again, I had worked for the President and the Vice President,
11 and I know that he's one to not be reluctant about sharing his emotions of the moment.
12 So, I mean, disappointment, sure. But I confess that it really didn't stop what we were
13 doing. I think we felt like there were much bigger concerns in the moment in the Capitol
14 than worrying about a tweet.

15 Q Did you discuss this tweet with Vice President Pence?

16 A I know I showed it to him at some point when we were in that secure
17 location, but --

18 Q What was his reaction?

19 A I don't think there was a lot of discussion about it, honestly. I mean, I think
20 that there was a lot bigger concerns than what the President was tweeting at that
21 moment.

22 Q Did he express concern, disappointment, anything?

23 A I think all of us were disappointed, sure. Sure. But, again, it didn't -- it
24 didn't cause us to stop and have a discussion about a tweet. It was just not where our
25 focus was.

1 Q Did it amplify concerns about physical security? This is at a moment, this
2 tweet is issued where people are chanting "hang Mike Pence," and the President says
3 that he doesn't have the courage to do what should have been done.

4 A At that point, we'd been evacuated to a secure location. I don't know how
5 much more amplified we could have been.

6 Ms. Cheney. Let me ask a question.

7 Mr. [REDACTED] Please, Ms. Cheney.

8 Ms. Cheney. Thanks. And thanks very much again, Marc.

9 And I admit, you know, I think about this in terms of a frame of reference, you
10 know, based on President Bush and Vice President Cheney, for example.

11 And I just wanted to sort of go back to something that [REDACTED] just mentioned. So
12 the committee has evidence that the President knew there was violence at the Capitol
13 prior to tweeting that his Vice President is a coward. And I understand, you know, we all
14 lived through -- I certainly lived through, as a Member of the House, you know, President
15 Trump's tweets.

16 But I would ask you just to stop for a moment and think about that. I certainly
17 can't imagine a situation where Vice President Cheney would have been at the Capitol
18 with a violent mob assaulting and President Bush would have tweeted or said anything,
19 knowing there was violence, that clearly encouraged further violence.

20 So I would just ask you to contemplate, you know, that sequence of events for just
21 a moment. Think about what it meant at the time. Even if you weren't aware of it at
22 the time, think about the significance of it in the aftermath.

23 A Well, Congresswoman, I think that -- I'm not trying to diminish the
24 sentiment. I think, as I said, it's disappointment. I guess, from my -- where I -- my
25 vantage point was, I'd probably seen the separation coming for a few weeks.

1 And, at that point, as I said, I confess that what the President was tweeting was
2 not front of mind or a concern for us. And a much greater concern was the safety of the
3 Members, which is why the Vice President wanted to be on the phone with at the time
4 Leader McCarthy and Leader Pelosi and as well Schumer and McConnell, and that
5 was -- that was our focus.

6 So I'm sure there's plenty that can comment on this. I think I have publicly
7 expressed my disappointment in the way that that day happened. I believe it was a
8 tragic day, and I think it's a tarnish on so much that was accomplished for 4 years.

9 But I can't -- I can't sit here and put I think additional emotional weight in the
10 moment on that tweet because there was just simply much greater concerns for us.

11 Ms. Cheney. So, maybe aside from the tweet itself, the general proposition that
12 a President of the United States would be signaling to a violent mob that he knew was
13 already assaulting the Capitol and was chanting "hang Mike Pence, hang Mike Pence,"
14 and the Vice President and his family and the nuclear football had to be evacuated on an
15 emergency basis, and disappointment is the extent of how you felt about that?

16 The Witness. Well, I'd say -- I mean, I can probably come up with additional
17 adjectives, but I guess -- I know we're going along chronologically, but if you'll forgive me
18 for sort of fast-forwarding.

19 I was proud of the way that our office handled that day, irregardless of what the
20 President and his team may or may not have been doing. And so, you know, at 3:50 in
21 the morning, when we finally adjourned and headed our own ways, I remember texting
22 the Vice President a passage from Second Timothy, chapter 4, verse 7, about I fought the
23 good fight, I finished the race, I have kept the faith.

24 And to me, that's -- that's what he did that day. He kept the faith. He kept his
25 oath. And I feel like that those who were serving around him maintained that fidelity as

1 well. And I just -- that -- that really is where we were and where our focus was.

2 And I'm sure that, you know, in hindsight, we can all look at this and give
3 additional judgment, but it just really wasn't much of a factor for us on that -- in that
4 moment of crisis.

5 Ms. Cheney. No, and I appreciate that. And I think we all are certainly grateful
6 for what the Vice President and you, what his team did that day to uphold the
7 Constitution.

8 And I think, again, that stands out in such stark contrast because he was in a
9 position, placed in a position where he had to do that, you know, and a President,
10 Commander in Chief, recognizing that there was a violent assault underway in the Capitol
11 and, instead of acting to tell people to go home, sends a message that we know incited
12 the mob further based on testimony from people in the mob.

13 I would just ask us to pause on that, not minimize that. And I think that actually
14 makes what Vice President Pence did stand out in even starker contrast. So I share your
15 view about what happened that day.

16 The Witness. I appreciate that. And I don't -- again, I don't -- I'm not really
17 intending to gloss over it. I'm just trying to be candid with you as to where our thoughts
18 and emotions were.

19 But I'm sure you have this as well, but I know the Vice President separately
20 tweeted out that -- asking people to leave the Capitol and saying that, you know, all of
21 the perpetrators should be prosecuted to the full extent of the law. So he was active in
22 putting out his own messaging in that moment too.

23 Ms. Cheney. Yes. Yes. All right. Thank you.

24 Mr. [REDACTED] Let's go then to --

25 Mr. Schiff. So can I -- this is Adam Schiff. Can I ask a question?

1 Mr. [REDACTED] Yes, please. Sorry, Mr. Schiff. Yes.

2 Mr. Schiff. Thank you.

3 Mr. Short, and I won't get this precisely right, but when you were asked about the
4 Vice President working with the Parliamentarian and using a different script during the
5 joint session, you indicated that he chose to do that, "he" the Vice President, because
6 he'd become aware of other certificates of electors, and he wanted to be transparent.

7 Can you tell us how you and the Vice President came to know that there were
8 other claims of slates of electors or other certificates?

9 The Witness. Congressman, we'd become aware that there would be individual
10 letters like the one that's in this binder that I had shared. Some were -- some were
11 requests from State legislators to say: We want to submit a separate slate.

12 Some were more general about: We object because we think the election in our
13 State had challenges or difficulties.

14 But, when we met with the Parliamentarian, she indicated as well that
15 every -- every 4 years, in fact, random individuals send in separate slates. So that -- that
16 happens regularly. But, certainly, we were aware that this had become a bigger part of
17 the public discourse because of some of the -- the attorneys around the President's team
18 who were pushing for this -- this theory that -- that the Vice President had some
19 extraordinary power to go beyond what was certified and recognize just some random
20 slate that had been submitted. And so he wanted to be as transparent as possible,
21 knowing that that conversation would happen at some point.

1 [11:12 a.m.]

2 Mr. Schiff. Were you aware at that time that alternate certificates of some
3 nature had, in fact, been sent to the Archives? Had that come to your attention? It
4 wasn't just Eastman's legal memo or theorizing, but, in fact, States had sent what
5 purported to be alternative certificates?

6 The Witness. I recall that we were aware that some had been submitted.
7 Where? You said, to the Archives. I probably wouldn't have known that. That there
8 had been some efforts. But how many, that was unclear, and exactly who signed them
9 was unclear. So aware in general, but not specific.

10 Mr. Schiff. And how did you become aware that some other forms of certificates
11 had been sent?

12 The Witness. I think that that effort, honestly, had been pretty public prior to
13 the 6th, that there were efforts by some attorneys around the President's team to collect
14 these and to submit them to us. And so I don't think that was a private
15 acknowledgment.

16 Mr. [REDACTED] Mr. Schiff, there's a document that was produced just yesterday by
17 the Archives that Ms. [REDACTED] has that goes to this point directly, Notice of Alternate Slates.
18 If you'd like, we can turn to that right now. It answers your question.

19 Mr. Schiff. It's up to you, [REDACTED]. I don't want to interrupt the flow of your
20 questioning if you -- if it makes more sense to cover that at a later point.

21 Mr. [REDACTED] No, I think it makes sense to do it now. I just didn't want to cut
22 you off if you had other questions. Otherwise, I'll turn to Ms. [REDACTED] on that.

23 Mr. Schiff. I just have a couple other questions and then I'll yield back to you.

24 Mr. [REDACTED] Yeah.

25 Mr. Schiff. To your knowledge, Mr. Short, had the Vice President seen these, any

1 of these alternate -- what purported to be alternate certificates?

2 The Witness. It's probable that Greg or I would have received them and maybe
3 made him aware, but probably wouldn't have shown them to him.

4 Mr. Schiff. And how would you have received them?

5 The Witness. I don't recall. Perhaps it's something that you now have from the
6 Archives.

7 Mr. Schiff. And do you recall what States you would have seen certificates from?

8 The Witness. I believe Arizona was here, if I recall correctly, but I don't -- I
9 believe there were efforts in Pennsylvania and Michigan. But I, to the best of my
10 knowledge, sir, I don't recall how many, again, and which specifically.

11 And I do believe that they had different language. So some were portending to
12 be a separate slate. In some cases, it was just, again, legislators signed a letter objecting
13 to their State certification because they felt that there had been fraud in their State, but
14 not actually putting forward a separate slate, just saying, "Here is our objection, we hope
15 that in your role that you don't certify the election," or something like that.

16 Mr. Schiff. One other question, and then I'll turn it back.

17 The clip that [REDACTED] played showed the Vice President giving that alternate
18 announcement during the joint session for the State of Alabama.

19 Was it his intention, or did he, in fact, use that same alternate script for each
20 State? Or was there a reason why, with respect to Alabama, he used that script that
21 acknowledged the possibility of other slates of electors?

22 The Witness. I believe he used that same language multiple times through the
23 day. I'm sure he wanted to use that Alabama because Alabama had been first
24 alphabetically, to make it clear as to what his role was that day.

25 Mr. Schiff. Thank you.

1 I yield back to you, [REDACTED]

2 Mr. [REDACTED] Thank you, Mr. Schiff.

3 Let me turn, actually, to Ms. [REDACTED] who does have just a recent production that
4 bears upon this question of knowledge of the alternate slate.

5 Ms. [REDACTED]. Thank you.

6 Mr. Short, if you want to look at that second binder at tab No. 8. There's a
7 document that we just very recently received in our production.

8 Mr. [REDACTED] Yeah. And I know, Mr. Short, you didn't get this until this
9 morning, so if you want to take a minute to take a -- you know, read through this, please
10 do.

11 BY MS. [REDACTED]

12 Q All set?

13 This looks like an email exchange between members of the staff of the OVP,
14 including yourself at the end, as a forward from Greg Jacob. Is that right?

15 A That's what it appears to be.

16 Q And I know you've identified Mr. Jacob and Mr. Hodges before. But could
17 you tell us who Hannah Lankford was?

18 A Hannah worked on the Vice President's staff, on the Legislative Affairs staff.
19 So she reported to Chris, and her office was in the Capitol.

20 Q Okay. Great.

21 And this email chain, which begins around January -- on January 2nd, and ends in
22 the afternoon on January 3rd, can you tell us if this jogs your memory about efforts within
23 OVP to track receipt of purported alternate slates of objectors?

24 A Yeah. I mean, it clearly appears that Greg and Chris were confirming from
25 whom alternate slates had been submitted.

1 But, again, I think it's important to note that the parliamentarian informed us that
2 this would -- this was not an unusual occurrence, that people would send in alternate
3 slates. There's a big distinction between a slate that is certified versus something that's
4 just submitted.

5 So having learned that in this process, I think it was important to -- probably for
6 Greg to know whether there were other ones that had come in.

7 But it wasn't something that I think we would have wanted to act upon unless
8 somebody said there's been an alternate slate that now has been certified by a State
9 because they've had a recount or they've had some other reason to believe that their
10 original slate was wrong.

11 Q Okay. Thank you.

12 And if you look at the email, it's up towards the top of the second page, January
13 2nd at 2:45 p.m. Hannah Lankford writes, "Here is the latest we have from the secretary
14 of the Senate."

15 Do you know whether the Vice President's Office received any slates of or
16 purported slates of electors directly, or were they all received through the secretary of
17 the Senate?

18 A I do not know. I believe they're traditionally submitted to the Senate.

19 Ms. [REDACTED] That's it.

20 BY MR. [REDACTED]

21 Q So this document reflects the confirmation that alternate elector certificates
22 from Nevada, New Mexico, Arizona, Georgia, and Pennsylvania were received by the
23 secretary of the Senate.

24 Is that right, Mr. Short?

25 A That's what it appears to be.

1 Q All right. But just to go back to your testimony, didn't really matter to the
2 Vice President because none of them were official or were sort of validated or submitted
3 by the authority of the State, the secretary of state of those individual States.

4 A When you asked, did it matter to the Vice President, I'm telling you I
5 probably didn't take it as of greater significance unless Greg or Chris had notified me that,
6 hey, there's a separate slate that now has been certified because X, Y, or Z had happened.

7 Q Right.

8 A I mean, I think that that was -- in the historical analysis that we did in 1961
9 when Nixon was in that position, and the occasion of Hawaii was an example where there
10 was a second slate that also was certified.

11 But absent that, then it's really not consequential that the Senate or anyone else
12 would receive a separate slate. You or I can submit a separate slate any 4 years.

13 Q Right. I understand. Right.

14 Mr. [REDACTED] Before we leave this, does anyone else have questions?

15 I want to go back to the loading dock and the day of January 6th.

16 How are we on time, Mr. Short or Mr. Flood? Are we good to keep going or do
17 you --

18 The Witness. Do we get to control time?

19 Mr. [REDACTED] Yeah. Well, to some extent, yeah.

20 The Witness. Can we turn back time?

21 Mr. Flood. Why don't we go -- yeah. Let's go another half hour or so, and
22 maybe we'll take a bathroom break.

23 Mr. [REDACTED] Absolutely.

24 Mr. Schiff. [REDACTED] can I just follow up on that before we move to a new subject?

25 Mr. [REDACTED] Sure. Yes, Mr. Schiff.

1 Mr. Schiff. Mr. Short, was there something about the nature of these purported
2 certificates that -- you mentioned, I think, that the President wanted to -- the Vice
3 President, in consultation with the parliamentarian, wanted to deviate from the script
4 because there had been more public attention to the possibility of other electors.

5 Was there something in the nature of these purported certificates, that is, did
6 these purport to be from the legitimate State body that would designate electors that
7 required a different script as opposed to, as you described, there were other times in
8 history where people would send in letters and do other things, so that wasn't -- it wasn't
9 that infrequent that there would be at least a claim of other electors?

10 But was there something in the nature of how these documents appeared or
11 purported to be authentic that required the greater -- the different script for that day?

12 The Witness. I don't think there was something in the way that they were
13 purported or how they arrived. I think the difference is that, again, any 4 years, any
14 individual can do it.

15 But I think that the difference here is that it was clear that there were attorneys
16 affiliated with the President or his campaign team who were generating public attention
17 to it.

18 And so I think that's the differentiation that the Vice President wanted to make
19 clear to the American people, that in his role, in his limited role as overseeing that day, he
20 doesn't have the authority to unilaterally decide, "I'm going to accept this set of electors
21 just because somebody sent them in."

22 So I think it was more about from whom the effort was originated and recognizing
23 there would be probably confusion in the public discourse because of who was pushing
24 them.

25 Mr. Schiff. And did you and the Vice President discuss, when you became aware

1 of these alternate purported electors, whether you or whether the Vice President could
2 play any role in trying to ascertain whether to accept or whether to delay the process
3 because of the nature of these purported alternate slates?

4 The Witness. I think that the Vice President was judicious in looking at all the
5 various legal theories that he was asked to evaluate. I don't remember it being
6 contingent upon, again, who signed what letter or how they arrived.

7 Mr. Schiff. I yield back. Thank you.

8 Mr. [REDACTED] Sure, Mr. Schiff.

9 BY MR. [REDACTED]

10 Q So, Mr. Short, I want to turn now to the conversations that you or the Vice
11 President had when you were moved to this secure location.

12 We understand that there was a conversation either with you and the Vice
13 President or just the Vice President with Representative McCarthy.

14 Do you recall a conversation between the two of them?

15 A Yes.

16 Q Describe what you can about your recollection of that conversation. Who
17 called who?

18 A So at some point when we got to that loading dock secure location, the Vice
19 President was asked to get in the vehicle and --

20 Q The same vehicle that had been the one that transported you from the
21 residence?

22 A Yes.

23 Q Okay.

24 A And he refused, at first, to get in the vehicle.

25 Q Why?

1 A Well, █████ said, "Look, we'll just hold here," and the Vice President said, "█████,
2 I trust you, but you're not driving the car. And as soon as I get in there, I'm worried
3 you're going to take off."

4 Q I see.

5 A Because they had communicated to us they had a clear window at that
6 moment to get out, that where the protesters were there was nobody in the actual road
7 on which you would exit from there.

8 Q I see. So it was still a live topic of discussion about potentially moving the
9 Vice President out of the Capitol in his vehicle.

10 A I think it was clear the Secret Service wanted to, yes.

11 Q And the Vice President resisted that.

12 A Correct.

13 Q Okay.

14 A For the same reason I said before, and even more so this time, because
15 you're actually in the motorcade.

16 But at some point it became clear, look, just hold here, we're not going to move.

17 Q Okay.

18 A And, at that point, the Vice President and I were in his vehicle, and we had
19 some level of privacy and said we should get on the phone and touch base with
20 everybody.

21 Q All right.

22 A So my first call was to Kevin on behalf of the Vice President.

23 Q Okay. Tell us about the conversation with Kevin.

24 A It was brief. I think that Kevin was obviously irritated about the
25 circumstances and -- but appreciated the call to make sure everybody was okay. And

1 we quickly moved to saying, "Should we all get everybody together on the phone?" And
2 both leaders said yes.

3 And so I don't recall at that point who connected whom. I believe we called
4 McConnell next and had a conversation with just them.

5 Q Before you get to that --

6 A At some point, the other Democrat leaders were added too.

7 Q I understand.

8 Tell me more about the irritation that Mr. McCarthy expressed. What did he
9 say?

10 A I don't recall specifics, but I think he was clearly irritated in the fact that
11 leadership had been evacuated and Members were not safe and frustrated that this was
12 the circumstance everybody found themselves in.

13 Q Did Mr. McCarthy indicate that he had been in touch with President Trump?

14 A He indicated that he had had some conversation. I don't recall whether it
15 was with the -- with the President or with somebody at the White House. But I think
16 he expressed frustration at not taking the circumstance as seriously as they should at that
17 moment.

18 Q So Mr. McCarthy indicated he had been in touch with someone at the White
19 House, and he conveyed to you that they weren't taking this as seriously as they should?

20 A Yes.

21 Q You have to answer yes or no.

22 A Yes. Yes.

23 Q Okay. It's been reported that President Trump spoke directly to
24 Mr. McCarthy and said, "Well, Kevin, I guess these people are more upset about the
25 election than you are," which prompted the response from McCarthy, "Who the fuck do

1 you think you are talking to?"

2 Did Mr. McCarthy convey anything like that?

3 A I think if something like that had been conveyed, I would recall it. I don't
4 recall that.

5 Q And, again, do you recall whether or not McCarthy -- Mr. McCarthy said he
6 had spoken to the President or others at the White House?

7 A I don't. I'm sorry.

8 Q The bottom line, though, is that Mr. McCarthy was irritated or was
9 frustrated --

10 A Of course.

11 Q -- at the lack of response from the White House?

12 A The lack of response or lack of responsibility.

13 Q You said the next call was to Senator McConnell. Tell us about that.

14 A I believe that's correct, that we got Leader McConnell on next just, again, to
15 check and make sure that his body was safe and his members were secure. And
16 somewhere out of that there was an agreement to say let's get all four leaders on the
17 phone --

18 Q I see.

19 A -- and begin discussing -- you know, it quickly moved into a conversation of
20 we need to get back in to vote tonight.

21 Q Yeah. Did Senator McConnell say anything about communications he may
22 have had with the White House or others?

23 A In a later conversation.

24 Q All right. Did he ever --

25 A He did not -- I'm sorry. Let me rephrase. He did not express that about,

1 for instance, the White House. In a later conversation, when all four leaders were on
2 the phone together, there was a concern that the National Guard had not arrived at that
3 point. And the Vice President, I think, was, "Well, do you want me to make a call?"
4 And, collectively, there was a, "Yes, would you please?"

5 So we hung up that joint call to call over to the Pentagon in which the Vice
6 President spoke with Secretary Miller and General Milley, and they assured him that they
7 were on top of it and the National Guard was being deployed.

8 So when he got back on the phone call -- we reconvened the call, and he conveyed
9 to leadership that he had done that, and that the response he got from Miller and Milley,
10 which I think that the rest of leadership was grateful to hear.

11 Q All right. Let me just make sure I get the sequence.

12 The first call is to Congressman McCarthy in which he expresses irritation. Yes?

13 A Sure.

14 Q The second call is to Senator McConnell, again, just Senator McConnell, not
15 the whole leadership, and he suggests let's loop in the Speaker and the majority leader?

16 A I don't know if it was McConnell since I think we -- you know, the natural
17 next call was to McConnell, and then collectively it was let's get the rest of the leadership
18 on.

19 Q Okay.

20 A And I think at that point -- there's probably call logs -- but I think at that
21 point the Vice President asked the White House to convene the call on his behalf.

22 Q I see.

23 A So some of these were on my cell phone, some of them were on a phone the
24 Vice President had, and some were collectively pulled together via the White House
25 operator.

1 Q Tell us a little bit about that convened leadership call, the call with both the
2 Republican and Democratic leadership of the House, the first call. That's the one in
3 which there's a question about the National Guard deployment?

4 A Yes.

5 Q What do you remember?

6 A And I don't -- I believe that the Vice President had the phone to his ear, so it
7 was not on the speaker. But he -- it was clear that he expressed that they had concerns
8 the National Guard had not yet been deployed.

9 Q Okay.

10 A And so he said, "Would you like me to call?" And I recall, I believe it was
11 now Speaker Pelosi and Leader McConnell both saying, "Yes, please." And so he did
12 that.

13 Q About -- any sense of time, Mr. Short, when --

14 A This would have been midafternoon. But, I mean, I've lost track of the
15 sequence here.

16 Q Completely understand.

17 How long, about, had you been down at the secure location when that call
18 occurred?

19 A I'm going to guess an hour-plus.

20 Q Okay. And, clearly, the National Guard, evidently, to you, had not been yet
21 deployed?

22 A We were in a pretty secure bunker, so I couldn't -- we didn't know firsthand.
23 But that was the information we were getting from the rest of leadership.

24 Q Okay. Anything else from the leadership call that you remember besides
25 the discussion of the Guard?

1 A The predominance of the conversation from the very first to subsequent
2 calls with collective leadership was we need to get back in tonight.

3 Q All right. That was already a stated imperative?

4 A It was -- well, I know it was to the Vice President. He said it from the
5 beginning. He said, "How quickly can we get back in?"

6 Q Got it.

7 A And, I think, you know, his belief was, again, the signal to the rest of the
8 world was not a good one if an event of this nature had been interrupted and so we need
9 to complete our business.

10 Q Was it your sense from either your listening to what you could or from the
11 Vice President that everyone agreed that all the leaders, the leadership in Congress, both
12 Republican and Democrat, agreed that the goal was to get back and reconvene?

13 A Yes.

14 Q After the first leadership call, you said that the Vice President then called
15 over to the Department of Defense and spoke to the Acting SecDef Miller and to General
16 Milley. Tell us what you recall about that conversation.

17 A I think it was a -- we're obviously in a position where the Vice President had
18 to be evacuated. I don't think there needed to be a conveyance of how significant a
19 situation this was. And him conveying that, "I understand that the National Guard has
20 been called. I'm being -- I was told by leadership that it's not been deployed. What's
21 wrong?"

22 Q Uh-uh.

23 A And I think there was assurances from Miller and Milley that they were on
24 top of it and were deploying the National Guard.

25 Q Was there any -- let's stop for a minute. The Vice President is doing this,

1 not the President. Was there any discussion, Mr. Short, about why the Vice President
2 needed to step into this breach at this moment and call the Department of Defense
3 rather than the President of the United States?

4 A No.

5 Q Was there any discussion as to what the President was doing or why the
6 President wasn't doing more?

7 A No.

8 Q What was your view as to why the Vice President needed at this moment to
9 step in as opposed to someone at the White House?

10 A I was unaware of what the White House was doing or was not doing. And I
11 think that the reason the Vice President stepped into that is because, again, his
12 conversation with congressional leadership expressed frustration.

13 And, again, I'm not the lawyer here, but it's my understanding that the Speaker
14 has ability to call the National Guard to the Capitol. So, jurisdictionally, that was her
15 responsibility, and she had called and they had not arrived. And so there was, I think,
16 audible frustration that that request had not been executed as quickly as it should have
17 been.

18 Q Okay. So when the Vice President spoke to Secretary Miller and General
19 Milley, they indicated it's coming. The request has been made. It's underway. They
20 assured you that this was a plan that was going into effect.

21 A Yes.

22 Q Okay. Anything else from that conversation?

23 A It was pretty perfunctory.

24 Q Okay. Did you then reconvene the congressional leadership call --

25 A Yes.

1 Q -- to report what Miller and Milley had said?

2 A Yes.

3 Q Okay. Anything you recall about that second leadership call?

4 A Again, I think at that point, when the assurance was the National Guard was
5 being fully deployed, the conversation moved to, how quickly can we get back in?

6 Q I see. If the Guard's coming, then how quickly can we get back onto the
7 floor?

8 A Or at least at that point an assurance everybody agreed we needed to do
9 that that night.

10 Q I see.

11 A It probably was a subsequent conversation, again, talking about timetables,
12 but at least there was an agreement that says, does everybody agree that we need
13 to -- to not adjourn, we need to commence with the business?

14 Q Understood. All right. After that second leadership call, who else did the
15 Vice President call, or from whom did he receive calls down there as you were waiting at
16 the loading dock?

17 A You know, we, at different points, were separated throughout that. At
18 some points, he was with Mrs. Pence. And so I don't -- I can't sit here and give you a full
19 call log of who else he received calls from.

20 I know at some point, much later, early evening, he asked me to call the Capitol
21 Police chief to come to us. And he wanted a firsthand accounting of, "I need you to
22 understand how important it is that we get back in tonight. What are you doing to
23 make sure we get back in tonight and what is the timetable?"

24 Q Yeah.

25 A So at some point I had been asked to call Chief Sund and ask him to come

1 over to our location, but that would have been much later in the afternoon, early
2 evening.

3 Q Yeah. I want to ask you about the meeting with Chief Sund. But between
4 the calls you described and that meeting, do you remember any other specific
5 conversations, either that you or the Vice President had?

6 A No.

7 Q Any other Members of Congress?

8 A No. I mean, Congressman Greg Pence was with us.

9 Q Yes.

10 A So we were certainly in touch with Greg. But no.

11 Q Other agency leaders, other Federal --

12 A Well, yeah. At some point, one of the joint calls included the Attorney
13 General, just to make sure that everybody who had jurisdiction was sending their law
14 enforcement personnel to help facilitate the security of the Capitol.

15 Q Okay. Over the course of the afternoon, again, before the Chief Sund
16 meeting, just tell us about the mood. Was it afraid? Tense? Like, what -- give me a
17 better sense as to sort of the general feeling that you had, Mr. Short, and that the Vice
18 President had.

19 A I'd say more somber, sort of a sense of sadness that this is where we were in
20 an elective democracy. I think we had the luxury of being surrounded by a lot of big
21 guys with big weapons, so there was probably a sense of security for us in that moment.
22 But I think a sense more of sadness.

23 Q Could you hear or observe anything going on with respect to the protests?

24 A No.

25 Q Did you have television screens? Were you able to follow news coverage of

1 what was going on?

2 A We had our phones.

3 Q And were you able to actually observe footage of what was going on
4 upstairs?

5 A I don't remember video footage. I mean, I remember people seeing
6 various tweets.

7 Q Okay.

8 A But I don't recall, like, looking at video footage.

9 Q All right. So there's no television in the vehicle or anywhere --

10 A There is not.

11 Q -- in this location that allowed you to watch live trans --

12 A Correct.

13 Q Okay. Let's talk, then, about the Sund meeting. You said it was sometime
14 later in the afternoon. At your request, Chief Sund comes --

15 Mr. Schiff. [REDACTED], before we leave the phone calls.

16 Mr. [REDACTED] Sure.

17 Mr. Schiff. [REDACTED], this is Adam Schiff again.

18 If I could just, I wanted to follow up very quickly on those first two calls because
19 these are -- I mean, obviously, all of these are quite historic in nature. But there's an
20 attack going on in the Capitol. You're in the secure location. You call the ranking
21 member of the House, Kevin McCarthy.

22 Mr. Short, are you either -- you're either on your phone, I take it, or the Vice
23 President's phone?

24 The Witness. Congressman, I believe that conversation was on my phone.

25 Mr. Schiff. And did you put the call on speaker so that you and others in the car

1 could hear it together?

2 The Witness. Yes, sir, but that would have only been the Vice President.

3 Mr. Schiff. Okay. And how does that call begin? I'd really like to try to flesh
4 that call out a little more.

5 How does that call begin? What is the -- what's, as you recall, the first thing the
6 Vice President says to the minority leader?

7 The Witness. I think that the first conversation was, "Are you okay?" I mean,
8 that's really the sentiment, was just wanted to go make sure that he was safe and
9 that -- and any update on his membership, to make sure that they, too, were safe.

10 Mr. Schiff. And what was McCarthy's response?

11 The Witness. He wanted to make sure the Vice President was safe. And so
12 he rejoined with us with a similar inquiry to make sure that we were safe and secure.

13 Mr. Schiff. What did he say about his own Members?

14 The Witness. He indicated that he was in touch and that they had been
15 evacuated, and to the best of his knowledge, they were being protected by -- I don't think
16 he had, you know, an account of all 435 Members. I think he was saying, "This is the
17 best information I have at this moment."

18 Mr. Schiff. And, again, after establishing that the Vice President was safe and the
19 House Members were safe, where did the conversation go next?

20 The Witness. It moved to a, "Should we get others on the call?"

21 Mr. Schiff. And then -- and I take it there was agreement that you should?

22 The Witness. Yes, sir.

23 Mr. Schiff. And then where did the conversation go from there?

24 The Witness. I believe, as I said, I believe that the next one to join the
25 conversation was McConnell. And at that point --

1 Mr. Schiff. Well, no. Before we get to that, at some point you mentioned that
2 the minority leader expressed irritation or frustration with the lack of response or
3 responsibility from the White House.

4 How did that come up in the conversation?

5 The Witness. He interjected that early in the conversation, I think shortly after
6 we'd made sure that everybody was safe. And I think he interjected a sense of
7 frustration in that moment.

8 Mr. Schiff. So this wasn't in response to a question from the Vice President
9 about whether he had been in communication with the President?

10 The Witness. I don't recall the Vice President asking that question.

11 Mr. Schiff. And as best you can recall, what exactly did McCarthy say about his
12 conversation with the White House?

13 The Witness. Candidly, he said very little. He just said that -- it was clear in the
14 emotion, the sense of frustration of not taking this moment as seriously as it could have
15 been. I mean, I could speculate on why, but I don't have a recall to say, "Here is exactly
16 what he said on that."

17 Mr. Schiff. And do you recall any more that he said about what in particular was
18 communicated to him by the White House that led him to believe they weren't taking it
19 seriously?

20 The Witness. No. He didn't say anything specific about it. I read the similar
21 accounts that Mr. ██████ said, but I don't recall him saying something like that to me.
22 If he had, I think that would have been a pretty stark thing that I would have
23 remembered.

24 Mr. Schiff. And did he say that he spoke to the President?

25 The Witness. I don't recall, sir.

1 Mr. Schiff. And anything else you recall of that conversation?

2 The Witness. No. That pretty much sums it. It was not a long conversation.

3 Mr. Schiff. So next you called Senator McConnell, and how does that
4 conversation begin?

5 The Witness. Very similarly. Mitch wanted to make sure that you are safe and
6 secure, and then asking about his membership, and similar where he wanted to make
7 sure the Vice President was in a safe and secure location too.

8 Mr. Schiff. And what -- after, again, establishing that the Members were safe,
9 what did McConnell have to say?

10 The Witness. Unsurprisingly, he did not say much, but I think that he
11 was -- again, he quickly moved to a, "Should we get Leader Schumer and Speaker Pelosi
12 on the phone?" "Yes, we all should." So that was the next step.

13 And as I said, I don't recall. I think we added Mitch into our conversation, but
14 then we hung up and asked the White House to convene a call, is the best of my
15 recollection.

16 Mr. Schiff. You say, not surprisingly, he didn't say much. Are you just referring
17 to his kind of general demeanor or was there more to it than that?

18 The Witness. He's not often very loquacious, so, yes, sir. That was referencing
19 that there was not much he -- not much more other than wanting to know that we were
20 safe as well.

21 Mr. Schiff. Thank you.

22 I yield back to you, [REDACTED]

23 Mr. [REDACTED] Okay. Just tell us about the meeting with Chief Sund, when he
24 came down and started talking about security.

25 Unless -- I'm sorry. Ms. Cheney, is there another question?

1 Ms. Cheney. Yeah. Before we go to the Chief Sund meeting.

2 Mr. [REDACTED] Yeah.

3 Ms. Cheney. Marc, when you were going through these calls and you said at one
4 point that the idea was, look, let's get all the leaders on the phone, did you give any
5 thought to -- did anyone suggest getting President Trump on the phone?

6 The Witness. I don't recall anybody suggesting that he should be a participant in
7 the conversation.

8 Ms. Cheney. And why not?

9 The Witness. You know, I think it's a fair question, but I don't -- I don't think
10 there was -- it was sort of like, we're all here either nearby the Capitol or in the Capitol,
11 we're the ones that are going to reconvene this. And so it just -- I don't recall anybody
12 suggesting that he should be a part of the conversation at that point.

13 Ms. Cheney. So when the -- at one point, you placed a call through the White
14 House switchboard.

15 The Witness. I think. Y'all would have the phone records, so I would assume
16 that that's the case.

17 Ms. Cheney. And just to make sure we have sort of the setting, the Vice
18 President is in a loading dock and has been evacuated because of a violent mob that's
19 invaded the Capitol, and the National Guard hasn't arrived, and the leaders of the Nation
20 are convening to make sure the National Guard has been deployed, and there was no
21 consideration to getting the Commander in Chief on the phone?

22 The Witness. To discuss how we reconvene and move forward with the events
23 of that evening, no, there was not.

24 Ms. Cheney. Any discussion at all -- go ahead.

25 The Witness. At some point in the afternoon, the Vice President said to me, "I

1 think we should be in touch with the White House." And we discussed who should
2 make that call and to whom, and agreed that ultimately I should call Mark Meadows.

3 Ms. Cheney. And I will want to get back to that and talk to you about that. But
4 just so I'm clear, there was no consideration given or thought given that the President
5 should be contacted while the assault on the Capitol was happening. He wasn't part of
6 the leadership discussions.

7 The Witness. Well, I mean, I think there's a distinction between being contacted
8 versus having a conversation about how quickly we reconvene and move forward with
9 the work of Congress.

10 No, there was not at that point consideration that that would have been a
11 constructive addition to the conversation.

12 Ms. Cheney. Okay. Thank you.

13 And then you mentioned that the Vice President in terms of getting into the car,
14 that, you know, he said, "I trust you, but you're not driving the car." Could you just talk
15 about that a little bit more?

16 The Witness. Well, I mean, look, because the agent for us, the relationship with
17 [REDACTED] was pretty close. And I think that [REDACTED], you know, opened the door. And he did
18 indicate we have a clean exit right now. And the Vice President said, "I'm not getting in
19 the car, [REDACTED], because, you know, I trust what you're telling me, but if I get in the car, it's a
20 different driver."

21 And, you know, they -- you may -- I'm sure it's what he was thinking, you may
22 think it's in my best interest to leave, but I don't think it is because I don't want -- I don't
23 want the world to see, again, a 15-car motorcade evacuating. So that was the context of
24 the conversation.

25 Ms. Cheney. Okay. All right. Thank you.

1 Mr. Schiff. [REDACTED], if I could, just to follow up on Liz.

2 Mr. [REDACTED] Yeah.

3 Mr. Schiff. Mr. Short, I'm really struck by Representative Cheney's questions that
4 there really wasn't thought given to calling the President or making the President part of
5 these discussions while there's an attack going on in the Capitol.

6 Mr. Short, the conversation went beyond when to reconvene or how to reconvene
7 the joint session to a discussion about calling the National Guard. Why wasn't at that
8 point consideration given to involving the President in that conversation?

9 The Witness. I don't think I can answer that, honestly, Congressman, because at
10 that point, as I've explained, we don't have visual as to what's transpiring inside the
11 building.

12 And so when the conversation in your bunker is happening, and it came up in the
13 conversation, a frustration that it had not been deployed, all the Vice President said,
14 "Well, would it be helpful if I called?" And there was a, "Yes, please do." And so he
15 did.

16 I don't think there was a stop and pause and say, "Well, is this a call the President
17 should make?" or, you know, "Leader McConnell or Speaker Pelosi, would you ask the
18 President to do this?" I just think it was a, "Would it be helpful if I did this?" and a, "Yes,
19 it would be," so he did it.

20 Mr. Schiff. Well, I mean, surely it would be helpful too if the President of the
21 United States were to call the Guard, would it not, Mr. Short?

22 The Witness. It certainly would be, but I am unaware if he did or if he did not.

23 Mr. Schiff. Was there a sense, either spoken or unspoken, and in light of what
24 Mr. McCarthy said about his frustration with the White House not taking responsibility or
25 being responsive, was there a sense that the President of the United States might not be

1 on the same page with what you were trying to accomplish in moving forward with a joint
2 session?

3 The Witness. If there was, it was not vocalized. I think everybody at that point
4 was, "What's our job? What are we going to do to complete our work?"

5 Mr. Schiff. Thank you, Mr. [REDACTED]. I yield back.

6 Mr. [REDACTED] Okay.

7 Mr. [REDACTED] I should follow up on that.

8 Did you personally have any concern that if the President were consulted that he
9 might not want the Congress to reconvene that night?

10 The Witness. I don't know, [REDACTED] I mean, I don't know that that, candidly, was
11 going to factor into our decisionmaking at that point.

12 Mr. [REDACTED] By that, do you mean that the leaders and the Vice President would
13 want the Congress to reconvene regardless of what the President would want?

14 The Witness. There was a commitment to reconvene amongst those who had
15 decisionmaking in that question.

16 BY MR. [REDACTED]

17 Q There are two late afternoon conversations. There's the one that Ms.
18 Cheney asked you about with the chief of staff, and then there's the meeting with Chief
19 Sund.

20 Do you recall which of those two things happened first?

21 A It's my recollection first that the call to Chief of Staff Meadows happened
22 first.

23 Q All right. Well, then, let's talk about that.

24 You indicated there was some discussion with the Vice President about reaching
25 out to the White House, who should do it, and the decision was you should call Mark

1 Meadows.

2 Tell us more about your conversation with the Vice President and what informed
3 that as the plan to go forward to contact the White House?

4 A I think for, let's say, the first 90 minutes or so, there was a sense of crisis and
5 making sure everybody's safe and having the calls we've already discussed.

6 Q Right.

7 A At some point there's a lull, because you're in your secure location, and at
8 that point it's a matter of the law enforcement letting us know when it's safe.

9 Q Yeah.

10 A Okay. So, at some point, it becomes more of a waiting situation. And
11 when that period of crisis had sort of eclipsed, he and I sort of had a conversation of, well,
12 probably we should be in touch with the White House.

13 Q Yeah.

14 A And perhaps that answers Congressman Schiff's earlier questions. But I
15 just don't think that that was front of mind for us until sort of the crisis had resolved
16 itself.

17 Q But Vice President Pence called Secretary Miller, and Vice President Pence
18 called the leadership. Why didn't Vice President Pence call President Trump, right?
19 That would have been consistent with the way he had personally been managing these
20 earlier conversations.

21 A You know, I think that, clearly, that for 4 years he did that. But I think in
22 that moment, I'm not sure how constructive that would have been. And I also, candidly,
23 Mr. [REDACTED] believe that if there had been a communication, that that probably was one
24 that the White House should have made to the Vice President to make sure that they
25 knew he was safe and secure.

1 Q I see.

2 A So if there was going to be a communication, it should have originated from
3 the other end of that conversation.

4 Q So two different factors. One, hey, they should be calling us, right, not us
5 calling them?

6 A It was not our predominant concern. Our predominant concern was
7 making sure everybody was safe and getting back in to vote.

8 Q Sure.

9 A But, ultimately, as I said, when there's sort of a -- okay, there's a pause, it's
10 like a realization that there has not been a call to check in and make sure that the Vice
11 President is safe.

12 Q Yeah. And how did that affect you and the Vice President?

13 A It was more of a, well, you know, we probably should touch base. And
14 again, I think there's a recognition that the President has not called him, so it was
15 determined that I should call Mark.

16 Q Instead of him calling the President directly, it was determined that you
17 should call Mark Meadows, your counterpart, the chief of staff to the President. Yes?

18 A Yes, sir.

19 Q Okay. Tell us about that conversation.

20 A I called and assured him --

21 Q Stop for a minute. Did you call him on his cell phone? Did you call him
22 through the switchboard?

23 A I don't recall, sir.

24 Q Okay. Was it on your -- it must have been on your cell phone.

25 A It was on my phone.

1 Q All right. Tell us about the conversation.

2 A I called to say, "I just want you to know that the Vice President is safe and
3 secure." And I believe he asked, you know, where we were, and I indicated in general
4 terms where we were. And I called to inform him predominantly that we were safe, and
5 it was our collective decision we should move forward with the work of Congress.

6 Q Okay.

7 A And he said, "I think that's the right decision."

8 Q Was there any discussion with Mr. Meadows about the President's
9 perspective, the President's activity, what the President --

10 A There was not.

11 Q Did you express any frustration with Mr. --

12 A I did not.

13 Q All right. It's reported in the Woodward book that you were described as
14 being frustrated with Meadows' perceived lack of concern and urgency about the Capitol
15 breach. Is that accurate?

16 A It would not be the first thing that Woodward has gotten wrong.

17 Q So that's not accurate.

18 A I don't recall expressing that. As I said, I mean, I think there's a recognition,
19 of course, that we were in a secure location and the White House has not inquired about
20 the Vice President's safety.

21 Q Yeah.

22 A So -- but I don't -- my conversation was really one that was quick.

23 Q Uh-huh.

24 A That was, he's safe, our intention is to resume and to complete the work
25 tonight.

1 Q Yeah. You're right. The disappointment or the frustration is evident.
2 My question is whether you conveyed that to Meadows and got any reaction from him.

3 A No, I did not.

4 Q It was straightforward, businesslike, not --

5 A Yes.

6 Q Okay. And did he express any emotion, frustration, feeling, anything, or
7 was his approach similar?

8 A As I said, his indication was, "I think that's the right decision," when I told
9 him that we planned to move forward that night to reconvene Congress and complete
10 the certification of the election.

11 Q All right. And, roughly, when was this, a couple of hours into the time you
12 were at the loading dock?

13 A Yeah. As I said, I think it was -- I said it was about after 90 minutes. So my
14 best guess is before, but that's a guess.

15 Q All right. And is that the only communication of which you're aware
16 between you or anyone in the Vice President's Office and the White House on January
17 6th?

18 A General Kellogg had called at some point in the afternoon as well.

19 Q Okay.

20 A And that call came in through the military aide, and I believe it was intended
21 for the Vice President. At the time, he likely was on the call with one of the leaders or
22 something else, and so I intercepted the call. I talked to Keith, and I told him we were
23 safe.

24 Q Tell us more about that conversation.

25 A That's all it was. It was really that simple.

1 Q Okay.

2 A And that quick.

3 Q So that was earlier than the call with Meadows?

4 A I believe it was earlier than the call with Meadows.

5 Q And that was Kellogg reaching out to the Vice President, but you intercepting
6 the call?

7 A Correct.

8 Q And having a brief conversation about being physically safe?

9 A Correct.

10 Q Did he say anything about the President or what was going on --

11 A He did not.

12 Q -- at the White House?

13 A He did not. I did not ask.

14 Q All right. So no other communication during the day with the White House,
15 with you or the Vice President or anyone else on your team that you're aware of?

16 A Not once the events on the Capitol occurred. I mean, obviously, we talked
17 through the morning conversations.

18 Q Understood. I mean, yes, subsequent to the events at the Capitol.

19 A Correct.

20 Q Okay. All right. Anything else about the Meadows call that you
21 remember, that you said or he said?

22 A Mark assured me that they were deploying the National Guard.

23 Q Okay. Anything else?

24 A No.

25 Q All right. Tell us about the meeting with Chief Sund. You said that --

1 Mr. Flood. Actually, [REDACTED], if you don't mind, I think this might be a good time to
2 take a break.

3 Mr. [REDACTED]. Sure.

4 Mr. Flood. We're at about 2 hours.

5 Mr. [REDACTED]. Absolutely. That's fine. We can take a break, and then we'll get
6 into the Chief Sund conversation and walk through the rest of January 6th. Thank you.

7 We'll go off the record.

8 [Recess.]

9 Mr. [REDACTED]. Okay. We're resuming back on the record with the deposition of
10 Marc Short.

11 BY MR. [REDACTED]:

12 Q I believe, Mr. Short, when we left off we were talking about late afternoon
13 on January 6th, and there was a meeting that you briefly described where the Vice
14 President asked to talk with Chief Sund of the Capitol Police.

15 Tell us, if you can, about that meeting and the discussion that you remember
16 between the Vice President and Chief Sund.

17 A They were situated in one part of the secure location, and I was fielding
18 other conversations or talking with other staff. And so I was not in the middle of that
19 conversation.

20 Q Okay. It's outside of the vehicles?

21 A It's outside the vehicles, yes. And, again, the Vice President's interest was
22 to reinforce how important it was to get back in that night. And he wanted to make
23 sure that the Capitol Police was doing everything they could to ensure that inevitability.
24 And so he just felt like, "I want them to hear from me personally, not just over the
25 phone," and that was really the purpose.

1 And the chief articulated he understood the desire. We were trying to -- there
2 was some conversation about concern that it would be difficult to sweep the building
3 because you wouldn't know if somebody had left an incendiary device behind. And that
4 was their concern because they did not have the resources with canine units or other
5 personnel to actually complete that.

6 Q I see.

7 A And that seemed to be the barrier.

8 Q Okay.

9 A But I think there were conversations about what is our risk tolerance and
10 what is our sense of what other resources can we deploy.

11 And I know as an outgrowth of that conversation, the Vice President asked [REDACTED]
12 what they could provide. And I believe there was another canine unit brought in from
13 Secret Service to help facilitate that securing of the building.

14 Q Got it. Was there any discussion -- that all sounds prospective, about
15 clearing and reconvening. What about retrospective? Was there discussion of what
16 had happened or --

17 A There really wasn't. Not that I was a part of.

18 Q So Chief Sund didn't talk about injuries to officers or numbers or anything?

19 A The Vice President asked. He said, "Are your officers okay?" And he
20 gave -- he did give a report --

21 Q Okay.

22 A -- about a certain number that had been injured. But my sense was that
23 subsequent reports seemed to be more severe than the in-the-moment report that we
24 received.

25 Q I see. Was there discussion of the National Guard or other resources being

1 brought to bear?

2 A Not that I recall.

3 Q Not with Chief Sund?

4 A Not that I recall.

5 Q Okay. And did Chief -- was the end of the conversation Chief Sund agreeing
6 to try to accommodate the desire to reconvene safely?

7 A I don't -- I did not sense that he came in with a different objective. I think
8 he was just trying to lay out, "Here are my hurdles."

9 Q Yeah.

10 A And I think the Vice President wanted to make sure he understood, no
11 matter what the hurdles are, we need to overcome them.

12 Q Got it.

13 A But I didn't sense a reluctance from the chief to get there. I think he had
14 the same goal in mind. He was just raising, "Here are my limitations."

15 Q Yeah. Okay. Did Chief Sund indicate that he had spoken with anyone at
16 the White House or any other officials besides the Vice President in this conversation?

17 A He had been in communication with other congressional leadership.

18 Q Okay.

19 A I'm not aware of any conversations he had separate from anyone else.

20 Q Okay. All right. The last question on that. Anything else you recall
21 about the conversation with Sund?

22 A No.

23 Q All right.

24 We talked earlier about the Vice President sending a tweet. Do you remember,
25 again, in relation to the meeting with Chief Sund or these other conversations, when the

1 Vice President issued a tweet?

2 A I believe he did a few that afternoon.

3 Q Okay. Well, I believe the one that I want to ask you about is at 3:35 p.m.,
4 that the Vice President says, "The violence and destruction taking place at the U.S. Capitol
5 must stop and must stop now. Anyone involved must respect law enforcement officers
6 and immediately leave the building."

7 And I believe that's the only tweet from the Vice President's account that we have
8 from that afternoon.

9 A That one sounds consistent. I thought there were additional ones.

10 Q Okay.

11 A But perhaps they were -- there was, like, a Mike Pence, and then there was
12 an official Vice Presidential account. So --

13 Q I see. Right. That's the one from the Mike Pence account.

14 A Okay.

15 Q And do you remember any discussion about the specific wording of the
16 tweet or the message that needed to be sent?

17 A Well, I think that's pretty clear.

18 Q Yeah. Well, that message says must immediately leave the Capitol.

19 A Right.

20 Q Right? Was that intentional, telling people to leave?

21 A Yes.

22 Q Okay.

23 A Very much so.

24 Q Well, let's turn -- the reason I ask is let's turn to, in your exhibit binder,
25 exhibit 38. This is another tweet from the President which is at -- I believe this -- the

1 time stamp is not on the exhibit, but it takes place at 2:38 p.m.

2 "Please support our Capitol Police and law enforcement. They are truly on the
3 side of our country. Stay peaceful."

4 No request for anyone to leave but simply to stay peaceful. Do you remember
5 seeing this --

6 A No.

7 Q -- or any discussion of this when it came?

8 A No.

9 Q Just a little while, an hour or so later, the next tab is 39. The President
10 again tweets at 3 -- this one is at 3:13.

11 "I'm asking everyone at the U.S. Capitol to remain peaceful. No violence.
12 Remember, We are the party of law and order. Respect the law and our great men and
13 women in blue. Thank you."

14 Again, same question. Do you remember that, any discussion of that?

15 A I do not.

16 Q All right. The President's not asking people to leave. The Vice President
17 is, but the President is not. Do you remember that being discussed?

18 A I don't. I can't explain why things didn't happen. But I do think that his
19 tweets in support of law enforcement and respecting them is pretty consistent with the
20 Vice President's perspective too.

21 Q Yeah. Okay.

22 Now, the next document I want to ask you about is No. 40, and this suggests that
23 there -- more information about phone calls with the Vice President. This is a White
24 House switchboard document that we received from the White House that's dated
25 January 6th?

1 A Uh-huh.

2 Q And if you look down on No. 12, it indicates that there were pending Vice
3 President calls with Senator Hawley, Josh Hawley, and Senator Doug Mastriano. And
4 these were calls that were pending, unclear if they were messages or connected
5 conversations between the Vice President and those two men.

6 Do you remember any phone calls between the Vice President and Senator
7 Hawley or Pennsylvania Senator Mastriano on January 6th?

8 A I do not.

9 Q Do you know whether or not he did speak to them that day?

10 A I do not recall. I believe that the call with Hawley was never connected.
11 I'm unfamiliar entirely with any call to Doug Mastriano.

12 Q Okay. It sounds like you recall that there was an attempt by Senator
13 Hawley to speak with Vice President Pence that afternoon that didn't connect?

14 A It didn't happen.

15 Q It did not happen?

16 A As far as I know, it did not happen.

17 Q All right. Did the Vice President speak to Senator Hawley before January
18 6th?

19 A Not immediately before. I mean, I can't tell you that as the President of the
20 Senate, he would have been there. He would have been there on the 3rd because he
21 swore in all new Members of Congress. So --

22 Q Yeah.

23 A Or in the Senate, I should say. But I don't recall him having any specific
24 conversation around the events of January 6th or leading up to January 6th with Hawley.

25 Q Okay. You're anticipating my question. I mean, Senator Hawley is one of

1 the objectors to electors, and I'm just wondering if you recall any discussion between him
2 and the Vice President about that subject --

3 A No.

4 Q -- the intent to object to electors.

5 A I do not.

6 Q Not on that day or other days?

7 A I do not.

8 Q All right.

9 How about Doug Mastriano? He's a Pennsylvania State senator who was
10 involved in discussions of alleged election fraud in that State. Do you remember
11 whether the Vice President ever spoke to him?

12 A I do not think he did, but I don't know for sure.

13 Q Not on the 6th or any other time?

14 A Correct.

15 Q All right. So those indications may be messages to them that were not
16 returned or they didn't connect.

17 A Correct.

18 Q Okay.

19 Ms. [REDACTED] Can I?

20 Mr. [REDACTED] Please.

21 Ms. [REDACTED] What about anybody else within the Office of the Vice President, did
22 anyone else have communications with Senator Doug Mastriano?

23 The Witness. Not that I know of. I can't promise you it didn't, but not that I
24 know of.

25 Mr. [REDACTED] All right. Now, exhibit 41 is at 4:17 p.m. The President sends

1 out a tweet with a video.

2 And, [REDACTED], if you could cue that up and play that.

3 I want to play this for you, Mr. Short. This is 4:17 p.m.

4 [Video shown.]

5 BY MR. [REDACTED]

6 Q Do you remember when that -- that was tweeted, a link to that video was
7 tweeted at 4:17 p.m. Do you remember seeing, hearing about that at the time?

8 A I do not.

9 Q Did anyone alert you or the Vice President that the President had issued
10 some sort of --

11 A I'm sure they did.

12 Q Okay.

13 A I just -- in the midst of everything else, I don't recall a conversation that was
14 specific to that video.

15 Q Okay. So it didn't prompt any reaction that you recall from the Vice
16 President?

17 A Not that I recall.

18 Q Okay. That's the first time, 4:17, that the President himself asks people to
19 leave or to go home, much later than the Vice President himself had done via tweet.

20 Is that consistent with your recollection of events, the President didn't encourage
21 people to leave until much later than Vice President Pence?

22 A It's consistent with my recollection of the timing.

23 Q All right. But, again, it didn't affect anything that you and the Vice
24 President were doing?

25 A Correct.

1 Q All right. Do you know whether or not it had an effect on people actually
2 leaving? Did the situation change, as far as you know?

3 A I do not know.

4 Q All right.

5 A Again, as I said, in terms of -- in that time, we were in a secure place and
6 getting intermittent reports, I should say, you know. Sometimes [REDACTED] would give me an
7 update saying the building is still not clear.

8 Q Yeah.

9 A Or at some point later, the building is now clear.

10 Q Was there a point at which, Mr. Short, you heard that there was a tipping
11 point back in the right direction, that things were clearing, things were calming? Do you
12 remember about when that occurred?

13 A It would -- I would imagine it would have been late afternoon, roughly
14 around the time of this. But, again, even then, the Service detail was telling us that it's
15 an important step, but we can't guarantee the building is secure yet.

16 Q Yeah.

17 A So it's certainly a relief, but it's not feeling like the situation is resolved.

18 Q I understand. So even though people are leaving, there's still a security
19 need to sweep and clear the building --

20 A Yes.

21 Q -- to ensure it's safe?

22 A Yes.

23 Q So it's not as if you can step right in as the rioters are walking out?

24 A Correct.

25 Q All right. The last tweet I want to show you is the next one in line, which is

1 exhibit 42, and this is at 6:01 p.m., an hour and 40 minutes or so after the video.

2 The President tweets, "These are the things and events that happen when a
3 sacred landslide election victory is so unceremoniously and viciously stripped away from
4 great patriots who have been badly and unfairly treated for so long. Go home with love
5 and in peace. Remember this day forever."

6 Any recollection of that tweet, of any discussion of that tweet with you or the Vice
7 President?

8 A No.

1

2 [12:29 p.m.]

3

BY MR. [REDACTED]

4

Q Soon after this, there's a phone call around 7 o'clock that is convened by Rich Donoghue. Do you remember Rich Donoghue. Rich was the Acting Deputy Attorney General?

7

A Okay.

8

Q And our understanding is that there's a large group call that includes the House and Senate leadership, General Milley, Secretary Miller, and the Vice President about 7 o'clock, sort of a briefing. Tell us if you were part of that conversation.

11

A Tangentially I was not on the call. But as I mentioned earlier in my testimony is I recall there was, again, at some point a conversation with DOJ and others to make sure everybody's law enforcement was fully deployed.

14

Q Okay.

15

A And I know that, at some point, the Vice President again communicated his belief that the people who perpetrated this should be prosecuted to the fullest extent of the law.

18

Q Mr. Donoghue has provided testimony to the select committee. He recalled the Vice President asking several questions, that Donoghue conveyed that the Capitol at this point was cleared but not fully secured. There was discussion about 8 o'clock as a potential target for reconvening. And Donoghue agreed on behalf of the law enforcement agencies that they felt that they could do it safely by 8 o'clock. Consistent with your recollection?

24

A Very consistent.

25

Q Okay. So, at some point between that call at 7, which I understand still

1 occurred while you were down on the loading dock, and 8 o'clock, you go back upstairs.

2 A Correct.

3 Q Tell us about what led to that? Who made the decision? Where'd you
4 go?

5 A At some point I had asked if I could go up, and there was a reluctance for
6 that, but [REDACTED] had said: I can send you up with one of my agents -- because for reasons
7 you said, it is not secure. He said: If you want to go around and make sure things in
8 the Vice President's office have not been stolen or taken, disrupted, you can do that.

9 Q Uh-huh.

10 A And so I was able to walk up with one of the other agents. We walked
11 through -- there's two different offices there. There is a ceremonial office right off the
12 Senate floor. And across the hall is the official Vice President's Legislative Affairs Office.
13 Walked through both, and they seemed to be undisturbed. And so, by the time we
14 could finish that field trip, we're headed back down to the secure location, and as I get
15 down, it's that point they have given the all clear sign.

16 Q I see.

17 A And people were beginning to mobilize to come back upstairs.

18 Q I see. So you just do this sort of advance scouting trip with a Secret Service
19 agent to make sure that the area to which the Vice President will now be moved is
20 undisturbed?

21 A Correct.

22 Q And you confirmed it does not appear to have been accessed by the rioters?

23 A Or at least not disrupted. Whether or not it was accessed, I don't know.
24 But, yeah, it did not appear that things had been disrupted or stolen.

25 Q All right. Had you eaten anything all day?

1 A I don't remember at that point.

2 Q Yeah. I mean, you never got your cheeseburger?

3 A I didn't, but, you know, that wasn't our primary concern either.

4 Q You must have been starving. Yeah are.

5 So you get back upstairs with the Vice President. Is it fair to say the whole party
6 moved from the loading dock back up to the ceremonial office?

7 A Yes.

8 Q And was the Vice President's family with him the whole time?

9 A Yes.

10 Q His wife and his children?

11 A Yes.

12 Q Okay. And they all went back upstairs --

13 A Yes.

14 Q -- after the all clear was given?

15 A Yes.

16 Q At that point, did you have a direct communication with Mr. Donoghue, with
17 the Acting Deputy Attorney General?

18 A I don't recall that, no.

19 Q All right. He indicated that you came out, said: Hey, we were just on the
20 call, you know. I understand the Vice President's here. Do you need anything at all?
21 This is Mr. Donoghue asking you. And you said: No, I think we got it.

22 You had a brief interaction with him. You don't remember that? I understand.

23 Was there ever any other briefing or any other sort of security assessment after
24 that 7 o'clock call once you got back up to the Vice President's --

25 A I don't recall any further security assessment.

1 Q Okay. Are so the session reconvenes at approximately 8:06 p.m. Do you
2 remember any discussion with the Vice President about his desire to make remarks or to
3 say something at the reconvening of the Joint Session?

4 A Yes. I think there was consideration as to whether or not there should be a
5 statement or something from him. And I think his preference was to do it live and not
6 put out a statement.

7 Q Uh-huh.

8 A Because of the procedures in Senate at that point he was longer in the chair.
9 So we needed permission from Leader McConnell to afford him the chance to give some
10 remarks to the top. And Leader McConnell consented to that. So, when we came back
11 in, the Vice President was able to I think speak to the Nation from that Senate Chamber.

12 Q Yes. So, at this point, the Houses are in their respective Chambers? Is
13 that right?

14 A Correct.

15 Q It's not a joint session. They were debating the objection to Arizona.

16 A Correct.

17 Q So the Vice President is in the Senate Chamber presiding, and Leader
18 McConnell gives him the ability to essentially open --

19 A Correct.

20 Q -- reopen the session?

21 A Correct.

22 Q Do you remember the words he used?

23 A I remember some of the words. I mean, I think that he thanked, if I recall
24 correctly -- I'm sure you have the transcript, but as I recall, he thanked law enforcement,
25 and he talked about it's a dark day in our Nation's history in the Capitol but also that

1 desire for those who perpetrated to be prosecuted to the full extent of the law.

2 Q And he ended did it by saying, "Let's get back to work"?

3 A Yes.

4 Q Was that purposeful?

5 A Absolutely.

6 Q Conveying to the world we will not be deterred; we have work to do.

7 A Yes.

8 Q And was that, Mr. Short, extemporaneous the Vice President speaking from
9 his heart, or was there a script or a draft of anything like that?

10 A He had written something out, but -- so, as with other elected officials,
11 sometimes he goes off script. So I don't recall exactly what he had written out, but,
12 yeah, he had prepared something just in the 10 or 15 minutes before he took the Senate
13 Chamber.

14 Q I see. He had written it himself?

15 A With help from his daughter, Charlotte.

16 Q Okay.

17 A And Mrs. Pence, yeah.

18 Q Got it.

19 Mr. Flood. I think I should say that scripted and from the heart are not
20 exclusive --

21 Mr. [REDACTED] Very good point.

22 BY MR. [REDACTED]:

23 Q And then the Senate convenes. The debate is had. There are several
24 States to which there are objections, and then the electors are ultimately certified at 3,
25 3-something in the morning.

1 What did you do during the time that the Senate had reconvened? I hope eat.

2 A I think that, at that point, there was probably more of okay, we're back;
3 we're finishing the work; wanted to let family know you're okay.

4 Q Yeah.

5 A So those sorts of conversations.

6 Q And I don't need to know about those.

7 A I think a lot of, candidly, you know, more downtime at that point because
8 there were a couple more objections. And so I guess staff had a chance to sort of hang
9 around with each other, but through there, I think that it was less dramatic, but several
10 steps were drawn out.

11 Q Did anything occur, Mr. Short, during the reconvened session that was
12 surprising or any information, evidence come to light that you had not anticipated?

13 A Not that I'm familiar, no.

14 Q Did things go essentially according to your and the Vice President's
15 expectation?

16 A Well, I think at that point you didn't know how many more States would be
17 objected to.

18 Q Uh-huh.

19 A So it is my understanding that a couple that they were probably going into
20 the day again it would be up to five and ultimately three. So I think that there were a
21 couple objections withdrawn, but, no, nothing that was extraordinary.

22 Q Yeah. But during the debate it is an opportunity for Senators to present
23 evidence that would cause doubt about the veracity of the electors or the integrity of the
24 elections. Anything new come up during that presentation, that you didn't anticipate or
25 that the Vice President?

1 A No.

2 Q A lot of that had been fleshed out it sounds like in advance?

3 A I think so.

4 Q Aware of that information?

5 A Okay.

6 Q And ultimately there was no evidence presented that changed the result; the
7 electors submitted officially by each State were counted and resulting in President Biden
8 being certified by the winner?

9 A Right.

10 Q Okay. I want to ask Ms. [REDACTED] to ask you about a couple of emails. Again,
11 things we just received from that day or that night and ask you. She can point you to
12 them directly.

13 Ms. [REDACTED] [REDACTED]

14 Ms. Cheney. [REDACTED]

15 Mr. [REDACTED] Oh, yeah. Maybe -- I'm sorry.

16 Mr. [REDACTED] I should have turned to you first, Ms. Cheney?

17 Ms. Cheney. No, no problem.

18 I just wanted to ask, Marc, during this period of time of the discussions about how
19 important it was to come back into session that night. Were you part of any discussions
20 about stopping the objections?

21 The Witness. No, ma'am.

22 Ms. Cheney. So, just in terms the House and Senate are coming back again, and,
23 as [REDACTED] mentioned, there were a number of Senators who withdrew their objections.

24 And, as part of getting to the conclusion and getting to finishing our business, there were
25 certainly discussions about, look, let's stop the objections so we can get this done. But

1 you weren't engaged in discussions about that.

2 The Witness. I was aware of those conversations. But I don't believe that our
3 office was involved directly in those conversations. I mean, I do recall, before the Vice
4 President took the Senate floor, that Tim Scott asked if they could have a moment of
5 prayer together. I do recall a couple other interactions. I recall sometime about
6 midnight as we were -- after one of the other objections that were transversing, that you
7 and the Vice President had a moment in Statuary Hall to talk about the day. And I
8 appreciated the kind comments that you provided him.

9 But I don't -- there's nothing else, that I sort of felt like -- at that point, it was a
10 matter of finishing the work. And I didn't recall something extraordinary else happening
11 there.

12 So a long answer to your question, ma'am. I know that there were conversations
13 about withdrawing. I don't think we were really a part of those.

14 Ms. Cheney. Okay. And, again, I'm not -- I certainly think that, at that point, it
15 would have been appropriate for the objections to stop, as I thought it was prior to that.
16 But my question was more sort of whether you were aware of any of those exchanges?

17 The Witness. Aware, aware, yes. But participant, no.

18 Ms. Cheney. Okay. And the ones that you were aware of, besides you
19 mentioned Senator Scott, and I did have the opportunity to thank the Vice President for
20 his courage that day. Can you tell us about others that you were aware of?

21 The Witness. I think there were several Senators who, knowing the day was
22 going to be protracted, had been wanting to object. But, as you said, after the riot in
23 the Capitol and several hours of securing the location, they decided that it was better to
24 heal the country and move forward without the objections.

25 So, again, aware of those conversations, but Congressman, I don't recall it

1 involving our team.

2 Ms. Cheney. Okay. Thank you.

3 Mr. [REDACTED] Any other members? We have a couple of more things to talk
4 about on January 6th. But this is a good time if anyone has questions about the day.

5 Mr. Kinzinger. None here. Thanks.

6 Mr. [REDACTED] Mr. Kinzinger, did you have a question you wanted to add?

7 Mr. Kinzinger. No. I was just saying I don't have anything. Thank you.

8 Mr. [REDACTED] Okay. Then let me turn it to Ms. [REDACTED] to ask you about a couple
9 of emails.

10 BY MS. [REDACTED]

11 Q Mr. Short, in that second binder that we just provided you this morning,
12 could you turn to, first, exhibit 13, which is a cover email, and with my apologies, based
13 on how the short period of time we have these documents, the attachment to that
14 document is found behind tab 16. You can tell they go together. The Bates numbers
15 at the top right corner end in 102 and then 103. Just let me know when you've had a
16 second to review it.

17 A I'm sorry. 102 and 103?

18 Q That's Bates numbers at the very top. It is exhibits 13 and 16.

19 A Okay. I got it. I think I'm with you.

20 Q Okay. Great.

21 This looks like an email with the date of January 6th at 4:01 p.m. You're not a
22 recipient on this email as far as I can tell. But it's from Greg Jacob. And can you
23 identify the address that it's sent to?

24 A That would have been a distribution for the mil aides that served the Vice
25 President.

1 Q And the subject line -- there's no content in the email, but the subject line is
2 "Please print for the Vice President"?

3 A Uh-huh.

4 Q Could you remind us, around 4:01 p.m. on the 6th, you were still in the
5 secure location?

6 A We were.

7 Q Is that right?

8 A Uh-huh.

9 Q Do you recall a discussion about printing scripts for the Vice President at that
10 time?

11 A I don't.

12 Q If you look at the attachment itself behind exhibit 16.

13 A Uh-huh.

14 Q It looks like this was the document that Mr. Jacob was asking to be printed
15 for the Vice President. Do you remember any discussions while you were in the secure
16 location with the Vice President about changes to the script for the reconvene session?

17 A No.

18 Q Okay. The third sort of section on this document starts OVP alternate,
19 respond to inquiry about competing electoral slate. Do you remember any discussion
20 about the development of an alternate script to respond to inquiries about competing
21 electoral slates?

22 A No.

23 Q Okay.

24 A There were conversations previous to this about theories that the Vice
25 President had some unique power to adjourn the session. I don't recall those

1 conversations happening on that day. I think that, as I mentioned, I was with the Vice
2 President most of the time in his car. Greg would have been in a staff van, probably
3 completing other work that had been there before.

4 Q Okay. Any discussions during the time that you were sheltering with the
5 Vice President in the secure location about inquiries that might be raised during the
6 debate about alternate slates of electors?

7 A Not that I recall.

8 Q Okay. And the script that's drafted here under "OVP alternate," it
9 reads -- it indicates that the Vice President would say: The chair has presented, in
10 accordance with past practice and the requirements of section 15 of title 3, United States
11 Code, only certificates of electoral votes that purport to be a return from a State and that
12 include a certificate from a State authority.

13 Do you recall why the last clause there was added, "that include a certificate from
14 a State authority"?

15 A I don't. I think my -- I believe it is to again clarify that, when they are
16 separate electors, that they need it be certified by the State.

17 Q And was it your understanding that the authority that this refers to would be
18 the executive of a State, a Governor, as opposed to a legislative authority in a State?

19 A I don't know that there was a distinction. I mean, when the State certifies
20 what the parties have usually chosen to be their slate of electors, again there are avenues
21 to contest elections, and don't know that submitting a separate slate is an avenue that
22 can say "it's been adjudicated, and we've identified fraud" or "we've done a recount, and
23 we're going to change our certificate."

24 Q Okay. And I think we'll have an opportunity to talk a little bit later today
25 about the meeting with the Senate Parliamentarian directly, but do you recall if the

1 Senate Parliamentarian gave any advice to you and OVP staff or the Vice President
2 himself about how to determine what would be a certificate from a State authority?

3 A I don't recall that.

4 Q Okay. Once you've returned to the Senate Chamber and the proceedings
5 have reconvened, I know you mentioned that you had a little bit more downtime with
6 staff. Where were you physically located at that time?

7 A Bounced around. The House is usually more liberal about letting staff onto
8 the floor. So, when the Vice President was presiding over the House Chamber, I
9 probably was standing in the back. When we were in the Senate, either in the
10 ceremonial office or Vice President's staff office.

11 Q And who else from the OVP staff was with you during the time from when
12 the Senate reconvened and then through the end of the process --

13 A There would have been several different staff predominantly probably Chris
14 Hodgson, Devin O'Malley, Greg Jacob, and the mil aides -- military aides.

15 Q Did all those, the staff members, remain at the Capitol for the duration of
16 the -- the remainder of the joint session?

17 A There were some staff that came up to be there after the dramatic events.
18 So there were some additional staff that arrived in the evening. I think everybody else
19 stayed throughout duration.

20 Q Okay. So Mr. Jacob was there with you for the rest of the night?

21 A Yes.

22 Q Okay. There's a couple more documents that -- in this set that we wanted
23 to direct your attention to. They are exhibits 17 and 18. They are a bit lengthy so you
24 might want to take a minute to look over them. These are emails between John
25 Eastman, instructor at Chapman University, emailing from a chapman.edu email address,

1 and Greg Jacob.

2 Mr. Flood. Take your time and start at the bottom.

3 The Witness. You want me to start with 17?

4 Ms. [REDACTED] That makes sense. And you will see that the bottom parts of the
5 email are overlapping. There's -- the top line email is different than these two exhibits
6 because there is overlapping.

7 Mr. Flood. [REDACTED], are they identical but for the top emails?

8 Ms. [REDACTED] Yes. That's my understanding.

9 BY MS. [REDACTED]

10 Q There's a lot here.

11 A There is a lot there.

12 Q Let's start with the document in tab 17 and starting at the back of the first
13 email chronologically. It starts with an email from Dr. Eastman to Greg Jacob on January
14 5th at 9:30 in the evening. Well, first, I should have asked when you reviewed these
15 documents, had you ever seen them before?

16 A I have seen some of these before.

17 Q Okay. Did Mr. Jacob share them with you?

18 A Mr. Jacob shared his conversations with Mr. Eastman after the events of the
19 6th.

20 Q Shared with you on a date after the 6th what the conversations that he had
21 had with Dr. Eastman?

22 A -- because some of these conversations are happening in the heat of the
23 moment. And I think Greg knew we were otherwise occupied. And so, after those
24 events, he shared with me the terse exchanges he'd had.

25 Q Okay. Were you involved in any exchanges with Dr. Eastman on the day of

1 January 6th?

2 A I don't recall having any conversation with Dr. Eastman or that day.

3 Q Okay. And the last in timed emails behind each of these tabs 17 and 18 are
4 around 11:45 at night on January 6th during the continued --

5 A Right.

6 Q -- session.

7 Did you discuss with Mr. Jacobs at that time his communications with Dr.
8 Eastman?

9 A No. As I said, I think Greg knew of the position we were in. And I think he
10 felt it was probably wiser to hold and share this with me afterward.

11 Q Understood. So this first email that Dr. Eastman sent to Greg Jacobs on
12 January 5th, 9:32?

13 A Uh-huh.

14 Q He refers to a discussion earlier that evening presumably between him and
15 Mr. Jacob. And it says: Major development attached. This is huge. It looks like the
16 PA legislature will vote to recertify its electors if Vice President Pence implements the
17 plan we discussed.

18 Were you aware of any huge development on January 5th with respect to the
19 Pennsylvania legislature?

20 A No.

21 Q Are you familiar with what the "plan we discussed" would have been?

22 A The plan we discussed, I think that probably is discussing the two options
23 that we had talked about earlier: First, the reject electors out of hand; second would be
24 a notion of somehow sending it back to States, which we concluded is not authority the
25 Vice President has either. The Constitutional allows him the ability to open and count.

1 And that what his role is.

2 Q Okay. You continue up in I think it's the third page behind tab 17; there's
3 an email that Dr. Eastman writes on January 6th, at 2:25 p.m., that's responding to an
4 email that Mr. Jacob sent at 12:14, which we understand would have been right at the
5 time that the Capitol was breached.

6 A At 2:25, right?

7 Q Yeah. Dr. Eastman writes: The siege is because you and your boss did not
8 do what was necessary to allow this to be aired in a public way so that the American
9 people can see for themselves what happened.

10 Are you familiar with other -- did Dr. Eastman ever make comments like that
11 directly to you?

12 A He did not.

13 Q Were you aware that he had sent this email to Dr. -- to Mr. Jacob on January
14 6th.

15 A Not until after.

16 Q Okay. What's your reaction to that, that statement that the siege of the
17 Capitol was as a result of something that Mr. Jacob and his boss, Vice President Pence,
18 did not do?

19 A After spending a few days with Mr. Eastman, I probably wouldn't have taken
20 it very serious one way or the other.

21 Q The next in time email Mr. Jacob sent to Dr. Eastman at 1:05 in the
22 afternoon of January 26th?

23 A Uh-huh.

24 Q He gives Mr. Jacobs' assessment of advice that was provided to the
25 President. He states in the second paragraph that: The advice provided has, whether

1 intended to or not, functioned as a serpent in the ear of the President of the United
2 States, the most powerful office in the entire world. And here we are.

3 And then, in the fifth paragraph, he starts: Respectfully, it was gravely, gravely
4 irresponsible for you to entice the President with an academic theory that had no legal
5 viability and that you well know we would lose before any judge who heard and decided
6 the case. And, if the courts decline to hear it, I suppose it could only be decided in the
7 streets. The knowing amplification of that theory through numerous surrogates
8 whipping large numbers of people into a frenzy over something with no chance of ever
9 obtaining legal force through actual process of law has led us to where we are.

10 What's your reaction to Mr. Jacob's description of the advice that was given to the
11 President?

12 A I think I've said on many occasions that I think the President was ill served by
13 the advice that he was receiving. And I think that our office was incredibly well served
14 by Greg. I think the country was well served by the advice that Greg, and I don't think I
15 could articulate it any better than he does.

16 Q What's your sense of the advice that was given to the President that he's
17 referring to here? Was it just in general everything related to January 6th or one
18 particular element of it?

19 A As I mentioned, I think it was an evolution from beginning that a novel
20 theory that the Vice President has some extraordinary power to unilaterally reject
21 electors to an evolution that ended when it was clear that that was not something that
22 our office determined was ever constitutional to then becoming a different novel idea
23 about sending back to the States, which I think sounds less stark, but, at the same time,
24 there's no constitutional authority that grants the Vice President that ability to
25 unilaterally say, "I'm going to send this one back to a State," and even though there may

1 have been individual States that sent letters with individual legislators signing those
2 letters, there was never any, any indication from a Senate majority leader, House majority
3 leader, Governor, anything to our office that said there is a sincere effort to supply
4 separate slate of electors.

5 Q If you go forward to the first page behind tab 17, the last in time email in this
6 exhibit. It reads that it's sent at 4:44, but I think that may be a time zone issue there.
7 It most likely was sent before midnight on January 6th. And it's an email from Dr.
8 Eastman back to Mr. Jacob. And, in the second paragraph, he says -- the first paragraph,
9 it discussed the Electoral Count Act. And then the second paragraph he says: So now
10 that the precedent has been set that the Electoral Count Act is not quite so sacrosanct as
11 was previously claimed, I implore you to consider one more relatively minor violation and
12 adjourn for 10 days to allow the legislatures to finish their investigations.

13 Were you aware that Dr. Eastman had renewed his request that the Vice
14 President adjourn for 10 days to allow the -- to send the electoral slates essentially back
15 to legislatures at 11:45 on the evening of January 6th?

16 A No, not until after.

17 Q Had anyone else, during the course of January 6th, reached out to either you
18 or Vice President to your knowledge to again request that he take this action?

19 A Not that I'm aware. No.

20 Q The continued or separate version of this email chain behind tab 18 is an
21 email from -- very close in time -- I expect on January 6th -- dated 11:45 p.m. from Dr.
22 Eastman to Mr. Jacob. He responds to a question that was posed by Mr. Jacob in the
23 email below that, at 4:29 p.m., asking Dr. Eastman: Did you advise the President that, in
24 your professional judgment, the Vice President does not have the power to decide things
25 unilaterally? Because that was pushed publicly and repeatedly by the President and by

1 his surrogates this week and without apparent legal correction.

2 Dr. Eastman's response about that reads: He's been so advised, as you know
3 because you were on the phone when I did it.

4 Mr. Short, were you also on any phone call where Dr. Eastman gave such advice to
5 the President?

6 A Can I have one minute with him?

7 Ms. [REDACTED]. Of course.

8 [Discussion off the record.]

9 Mr. Flood. Can you ask the question again, please?

10 Ms. [REDACTED] Sure. In the top email, behind tab 18, which is an email from Dr.
11 Eastman to Mr. Jacob, Dr. Eastman writes, referring to the President in context: He's
12 been so advised, as you know because you were on the phone when I did it.

13 And the question is, were you also on a phone call where Dr. Eastman provided
14 this advice to the President?

15 Mr. Flood. Let me commend you on that artful question. Mr. Short is prepared
16 to answer questions about whether he was a participant on a particular call, but we have
17 an instruction from President Trump to -- that Mr. Short is to comply with the Presidential
18 communications privilege at this point, pending further developments. And so I'll give it
19 back to Marc to try to answer consistent with my directions, but I want you to answer the
20 question, has the effect of disclosing the content of communications to or from the
21 President. So if you can provide Ms [REDACTED] with an answer that doesn't disclose the
22 content, please do. Otherwise, I'm going to ask him not to respond until this can be
23 work out.

24 Mr. [REDACTED] Understood.

25 The Witness. I don't believe I was on such phone call.

1 Ms. [REDACTED] Do you have any knowledge of whether such a phone -- when such a
2 phone call took place?

3 Ms. [REDACTED] I do not.

4 Ms. [REDACTED] Okay.

5 BY MR. [REDACTED]

6 Q Just to follow up, Mr. Short, on something you answered in response to Ms.
7 [REDACTED]'s questions about Dr. Eastman. You said, by this point, it didn't surprise you, or
8 nothing -- I wanted to ask you to just talk a little bit more about your assessment of Dr.
9 Eastman's credibility over the course of your interactions with him. This email exchange
10 suggests that you weren't surprised because you had a view as to the strength of his
11 arguments or his credibility. Can you talk a little bit more about your impression of him?

12 A Well, I think that Greg's articulation, as I said, is not really one I can improve
13 upon. Leading up to the dates of this event I'd had a conversation with Judge Luttig, and
14 I initiated that conversation because he'd become -- seen in press publications or
15 elsewhere of Eastman advising the President on some of this. And I read in his bio that
16 he had clerked for Judge Luttig. And so I initiated a call to the judge try to -- to try to
17 help inform interactions here. And I think that -- I think it was really helpful because the
18 judge said that John's a great guy, and John's a really smart guy, but John's an academic,
19 and he's never litigated something of this nature, and it's not a practical sense. And I
20 think that did shape a lot of our conversations because there was a lot of theories that
21 were thrown out I think without considering what the consequences of those theories
22 would be that may be entertaining in a moot court but practically had other
23 consequences. And so that's why I gave the answer I gave.

24 Q I see. We're going to talk about the exchange with Judge Luttig and some
25 of his statements. As I said, we're going to go back in time a little bit this afternoon, but

1 it sounds like your assessment, if I could summarize it and correct me if I am getting this
2 wrong, but your sense was that Dr. Eastman was an academic and was positing theories
3 that perhaps were disconnected from a sense of consequence, practical reality. Is that
4 generally accurate?

5 A I think that's the opinion that Judge Luttig provided me, and, since he
6 clerked for Judge Luttig, I took it to heart, and I think our experience affirmed that.

7 Q Got it. Okay.

8 Mr. [REDACTED] Anything else?

9 Ms. [REDACTED] I think that's it.

10 Mr. [REDACTED] Okay. So any other -- let me stop here.

11 Mr. Aguilar, I see your camera is on or any other members have questions? This
12 is sort of all I intended to cover about January 6th itself, but if anyone has followups, now
13 would be a good time to ask them.

14 Mr. Aguilar. Yeah, I do, just one.

15 Thanks, Mr. Short.

16 I'm curious -- and you talked about this -- the change from the alternate slate of
17 electors to just the 10-day, you know, extension period. Exhibit 12, you know, also from
18 Ms. Ellis -- and maybe [REDACTED] will get to this later too; I apologize -- it also talks about a
19 different theory of kind of accepting half of the electors and sending them back. So you
20 have just different kind of theories here. When did you see the theories change?
21 When did you see the theory change from an alternate slate of electors to we just need
22 10 day's more time?

23 The Witness. Congressman, my sense is there were two separate theories, and
24 they were kind of moving on different tracks. And so the notion of sending back to
25 States didn't -- I can't say it was new on January 5th. My sense is that that's -- that was

1 the evolution amongst some in and around the President to say: If we can't -- if the Vice
2 President looks at this and constitutionally says you can't unilaterally throw them out,
3 then let's fall back on this option.

4 So I guess when -- yeah, I think they had been on dual tracks, but my sense was
5 that the emphasis moved that probably in the last 24 before the events of the January
6 6th.

7 Mr. Aguilar. Do you think that was out of almost desperation that the first
8 theory was not getting a lot of oxygen?

9 The Witness. Congressman, I think that the Vice President was clear in rejecting
10 the first theory from the very first time it was initiated. So that -- that, to exhaust the
11 option of that seemed to take a significant amount of time. So I can't say specifically as
12 to why that reality set in that that was a nonstarter.

13 Mr. Aguilar. Exhibit 13 is a note from John McEntee, and it says: This is
14 probably our only realistic option because it would give Pence an out.

15 Is that how it was conveyed to you? Do you recall that strategy?

16 The Witness. I'm sorry; I don't have context for this note from John.

17 Mr. Aguilar. It's after exhibit 12, which was the Ellis memo, which talks about --

18 The Witness. I see.

19 Mr. Aguilar. -- I don't know if they are connected, but that's how they are listed.

20 The Witness. I see. I don't know. It would be hard for me to give you a
21 comment on that, not seeing it and not knowing what context it's in.

22 Mr. [REDACTED] Mr. Aguilar, we are going to go through the earlier exhibits in the
23 sort of precursor, the discussions that led to January 6th this afternoon. So those are
24 good questions that we'll develop a little bit more with reference to that and other
25 documents this afternoon.

1 Mr. Aguilar. Thanks, [REDACTED] I appreciate it.

2 Mr. [REDACTED]. Okay. Sure, sure.

3 I see Mr. Raskin has also just joined.

4 Any other questions, though, about the day of before we take a break?

5 No? Okay.

6 Ms. Cheney, yes, please.

7 Ms. Cheney. Going back, Marc, to the discussion about whether the Vice
8 President should get in the motorcade and leave, did you know where the Vice President
9 would have been taken.

10 The Witness. Yes, ma'am. I think it's intended to be -- it's classified as well.

11 Ms. Cheney. Okay. So it was theoretically an alternate location?

12 The Witness. Yes, ma'am. It was not the same location as to where House and
13 Senate Members were evacuated.

14 Ms. Cheney. Was it the White House?

15 Mr. Flood. If I might break in, Congresswoman. Marc is concerned, and so I am
16 on his behalf that he not say something that may be regarded as classified. It may not
17 have been visible to you, but earlier in the questioning [REDACTED] here on staff made the
18 point that he didn't think this was a classified setting. Marc will be -- he'd be obviously
19 pleased to answer the question in a SCIF or another context in which the safeguards are
20 there so I don't put my guy in harm's way.

21 Ms. Cheney. No. I fully appreciate that. And we'll take you up on that if we
22 could, and we'll ask the question in a classified setting, but I appreciate that.

23 Thank you.

24 Mr. [REDACTED]. All right. Mr. Schiff, I see you've also appeared. Are there any
25 other questions about January 6th?

1 Mr. Schiff. Yes. And, [REDACTED] I don't know whether this is something you plan to
2 cover later or covered; I was absent for a few minutes.

3 Mr. Short, did you have -- did the Vice President, to your knowledge, have any
4 involvement in the planning of the rallies that took place on January 6th?

5 The Witness. No, sir.

6 Mr. Schiff. And did he have any awareness of who was being invited to speak
7 and what the crowd was going to be like? Did he have an awareness of what was going
8 to be happening on the Mall that day?

9 The Witness. He was aware there was a rally. He was aware that it had been
10 publicized. He was aware there would be a large crowd. I don't recall our office ever
11 being consulted or informed in any way about a list of speakers.

12 Mr. Schiff. Was your office ever made aware by the Vice President's security
13 detail or others that there may be involved in that rally on the Mall White nationalist
14 groups?

15 The Witness. I was not.

16 Mr. Schiff. And were you or the Vice President made aware that there was a
17 likelihood or possibility of violence on the Mall that day.

18 The Witness. I was not.

19 Mr. Schiff. So, to your knowledge, there were no security concerns raised with
20 the Vice President by his detail or others that there could be some risk to the Vice
21 President that day?

22 The Witness. Earlier in testimony, I shared a conversation that I had with our
23 lead agent raising concerns that his team should be aware. And that conversation was
24 on the 5th. I did not have a briefing of other participants or other concerns that were
25 shared with our office of things that we needed to be aware of.

1 Mr. Schiff. As I recall your testimony, though, that concerned the fact that the
2 Vice President was going to be issuing a statement that would be at odds with the
3 President's position.

4 What I want to ask, though, is, were you made aware or was the Vice President
5 made aware of any concerns about potential violence at the Mall that day?

6 The Witness. I was not. I'm not aware of the Vice President receiving that
7 information either.

8 Mr. Schiff. Did you have any prior indication that the President intended to tell
9 the audience that he was going to march with them to the Mall?

10 The Witness. No, sir.

11 Mr. Schiff. And in real time, did you receive any information that the President
12 had informed the crowd that he was planning to march to the Mall?

13 The Witness. No, sir.

14 Mr. Schiff. And so at what point then did the Vice President or yourself first
15 become aware of the threats to the Vice President's safety?

16 The Witness. I don't think we were aware of a threat truly until the Vice
17 President was evacuated off the Senate floor and we reconvened up in his ceremonial
18 office. I mean when we -- at some point prior to 1 o'clock, you could look out the
19 window and see people gathering, but that appeared to be entirely peaceful. So I don't
20 think that there was a sense of a threat until we were alerted that people had breached
21 the building and request of Secret Service to evacuate him.

22 Mr. Schiff. So at no time then, as people were gathering around the Mall or even
23 while people were marching the Mall or the President was calling on people to go to the
24 Capitol and fight like hell, at no time during any of that did the Vice President receive
25 word that there might be a threat to the Capitol or to himself personally?

1 The Witness. Not that I recall, sir.

2 Mr. Schiff. And, even as the crowd gathered around the Capitol and prior to the
3 Capitol being physically breached, there was no sense of concern over the Vice
4 President's safety?

5 The Witness. No, sir. I think there was a strong belief that the Capitol Police
6 had that building secured or would have had that building secured. And so I believe that
7 the protesters there were assembling in a peaceful manner. So we were not alerted
8 really until the Capitol had been breached and there were efforts to evacuate him.

9 Mr. Schiff. So, between the time that there was a conversation about the Vice
10 President making public his statement and any risk that that might create and the breach
11 of the Capitol there, but no forewarning of a danger to either the Capitol or the Vice
12 President?

13 The Witness. Not that I'm aware of.

14 Mr. Schiff. Thank you.

15 I yield back, [REDACTED].

16 Mr. [REDACTED]. Okay. Thank you, Mr. Schiff.

17 Are there any other members?

18 If not, I think this might be a good time to take 30 minutes or so for lunch.
19 Hopefully we've arranged that everything can be accessible quickly, and we won't have to
20 take a long break. I'm conscious of time and want to move through the rest of it quickly.
21 I still think it will take the balance of the afternoon.

22 Mr. Flood. Sure.

23 Mr. [REDACTED]. Maybe a half an hour or so, if that works?

24 Mr. Flood. Sure.

25 [Discussion off the record.]

1

BY MR. [REDACTED]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q So, Mr. Short, now, what I want to do is, as I said before, we sort of had the climactic scene, but now we are going to go back and lay the foundation. So I want to go through a little bit of the precursors to what we just talked about. Actually, I want to go all the way back to a couple of things pre-election. My understanding, and correct me if I am wrong, is that there was some discussion about the Vice President's authority, the certification, all the way back as early as the Vice Presidential debate October the 7th. I want to ask you whether or not you recall, following that Vice Presidential debate, that you and Mr. Jacob had a conversation about doing some research on the 12th Amendment, the Electoral Count Act, preparing for the possibility that there could be some controversy around the Vice President's authority. Do you remember that back as early as the Vice Presidential debate?

A I remember that there was an understanding that it was going to be a contentious election, that, in light of the COVID pandemic, that many States had changed their electoral laws, and there would be a significant number of mail-in ballots. And I think that Greg was doing due diligence to explore all options about a potential contested election and what would be the Vice President's role in a contested election?

Q Okay. Were you, as the chief of staff, did Mr. Jacob report to you? Were you sort of the supervisor of all of the OVP staff?

A Yes, sir.

Q Okay. And did you ask him, because of the pandemic and the change in election rules, to start looking at these issues, the Twelfth Amendment the Electoral Count Act, as early as October?

A I may have, but I don't recall that.

Q Okay. Do you remember him producing any product to you, any written

1 analysis?

2 A I belief that Greg did, but, again, my recollection was that was him doing due
3 diligence of exploring all different scenarios.

4 Q Okay. Was there a concern about the President declaring victory, despite
5 the fact that results, reported results might have indicated otherwise?

6 A I don't -- I don't know that there was concern. I do think there is a reality
7 that you would have certain States having returns come in before absentee ballots were
8 collected. But I don't recall there being any specific concern about that.

9 Q Okay. I'm asking specifically about conversations with Greg Jacob, between
10 you and Greg Jacob, where there was a potential concern that, no matter what the
11 outcome of the election, there could be an initiative in which the President would declare
12 victory, therefore putting the Vice President in a difficult place.

13 A I don't recall that.

14 Q Okay. And, again, you said that Mr. Jacob may have prepared some
15 analysis. You don't recall whether he did or not?

16 A I presume he did.

17 Q Okay. Do you remember seeing it?

18 A I don't recall right now.

19 Q Just to be clear, try to let me finish the question --

20 A Sure.

21 Q -- before you provide an answer. And I will try not to talk over you as well.
22 There were reports that there was such a memo prepared that was sort of laying
23 out the Twelfth Amendment, the Electoral Count Act. Do you recall ever seeing that
24 prepared by Mr. Jacob?

25 A I don't.

1 Q Do you remember discussing these issues with the Vice President back,
2 either before the election or around the time that the election was declared by the
3 networks as President Biden being elected?

4 A I don't. I think it's important to note that [REDACTED]
5 [REDACTED]

6 Q I see. When is the first time that you remember talking to the Vice
7 President about these issues, the Twelfth Amendment the Electoral Count Act, his
8 particular role?

9 A Again, I think that, in a broad sense, we knew it was going to be a contested
10 election. I don't know that there was specific conversations about his role in
11 determining any of the results until, you know, later. And my recollection was that
12 there may have been memos prepared, but the focus was litigation efforts, recount
13 efforts. And, at some point around December 14th, when the results of the electoral
14 college, I believe there was, certainly on my part, an expectation at that point there
15 would be an acceptance of the results, if not --

16 Q Okay.

17 A -- a concession. When that didn't occur, then I think our efforts became,
18 you know, far more intense in the period of December 15th through January 6th. It
19 doesn't mean there weren't memos drafted prior to that, but I would say that was, again,
20 Greg was an excellent lawyer who prepared all of the scenarios. Our focus didn't turn to
21 it until after that.

22 Q Understood. December 14th is the day on which the electoral college
23 meets? Right?

24 A Correct.

25 Q People all over the country meet, and the electors are certified?

1 A Right.

2 Q Up until then, there's litigation. There are recounts. There's discussion
3 about election fraud. But you -- I believe you said, as of December 14th, your view was
4 that's run its course, and it's time to move forward?

5 A Yes.

6 Q Okay. A couple of things prior to December 14. Do you remember
7 getting a request to go to Philadelphia from Corey Lewandowski to observe or to get
8 involved in some election-related matter?

9 A Yes.

10 Q -- tell us about what you recall.

11 A I just had a call from Corey in which, in Pennsylvania, in particular I think it
12 was Philly, there had been some particular irregularities where people who should be
13 allowed from the campaigns to oversee and watch the counting had not been allowed in
14 the room.

15 Q Uh-huh.

16 A And his viewpoint was that, because they were not allowing them in and
17 votes were continuing to be counted, he called to ask if the Vice President would be
18 willing to go to Pennsylvania and oversee the continued counting of those ballots.

19 Q And did you discuss that with the Vice President?

20 A Briefly.

21 Q And what was the response?

22 A My advice to him was it's certainly not a role for the Vice President of the
23 United States.

24 Q Explain that to us. Why would that not be appropriate for the Vice
25 President to go watch ballot counting in Philadelphia?

1 A I'm not sure it needs that much explanation. I don't think it's appropriate
2 for the Vice President of the United States to be a poll watcher. He can do that in his
3 own private time, if he wants. But to be there overseeing it, I think -- I mean, I'm not
4 questioning the unfairness of feeling that continued ballot counting was happening
5 without Trump campaign people allowed to be in the room. It seemed to be that was a
6 violation of the State statutes. Did not think sending the Vice President of the United
7 States to do that was responsible.

8 Q Did you convey that back to Mr. Lewandowski?

9 A I don't know if I conveyed that back or if I told him I would get back to him
10 and never did.

11 Q Do you know what role he played with respect to the Trump campaign?

12 A Corey was obviously the President's first campaign manager in 2016. He's
13 been a trusted political adviser to the President. I don't know what the official role was,
14 but I took a call from Corey seriously.

15 Q Do you know whether or not he spoke for the President or that was a
16 request that came from the President to the Vice President?

17 A I do not know.

18 Q Okay. Did you have discussions during this timeframe with Bill Stepien?

19 A I would have had, you know, some updates about where recounts were
20 going on. I certainly talked to Bill frequently during the campaign about best places to
21 deploy the Vice President.

22 Q Was he the leader of the Trump campaign, the chairman or director?

23 A He's campaign manager.

24 Q Campaign manager. Okay. Mr. Stepien, was it fair to say, a numbers guy,
25 a professional veteran of campaigns?

1 A I would say that Bill is very good at what he does.

2 Q Do you ever recall him telling you that the President had lost, that it was
3 clear from the numbers that the President had not secured enough votes to be elected?

4 A I think Bill was skeptical of a different outcome after the votes had been
5 tallied.

6 Q I want to understand that. The votes had been tallied on December 14th
7 or the votes had been tallied in November?

8 A I think, at some point, when States had been called by the networks, you
9 know, it was -- it was a "we have legal recourses we should explore," --

10 Q Uh-huh.

11 A But I don't think he felt the probability of overturning it was high.

1 [1:28 p.m.]

2 Mr. [REDACTED] I see. Did you know whether he conveyed that to the President?

3 The Witness. I don't know that.

4 Mr. [REDACTED] Were you ever present for a discussion in which Mr. Stepien told
5 the President, "It's over, you lost, the numbers aren't there"?

6 Mr. Flood. Can I interject? I'm going to rephrase your question, [REDACTED].

7 Were you ever present for a discussion between Mr. Stepien and the President,
8 yes or no?

9 The Witness. Yes.

10 Mr. Flood. Okay.

11 I think we are under an instruction not to disclose the content of that. So if
12 there's a way you can answer Mr. [REDACTED]'s question without doing that.

13 And perhaps, [REDACTED], you might repeat the question --

14 Mr. [REDACTED] Yeah.

15 Mr. Flood. -- let's try.

16 Mr. [REDACTED] Okay.

17 BY MR. [REDACTED]

18 Q It sounds like -- did Mr. Stepien convey to you his view, his skepticism, that
19 the numbers weren't there to essentially overturn what the networks had called, that
20 President Biden won?

21 A Skepticism, yes. But I don't think outright we know the answer here.

22 Q Okay. And do you know whether or not any conversations he had with the
23 President were inconsistent with that, or did he, rather, convey that information
24 consistent to the President?

25 A I don't know.

1 Q You don't know. You were present, though, for some conversations where
2 Stepien and the President were in direct communication about the election.

3 Mr. Flood. That's a yes or no.

4 The Witness. Yes.

5 Mr. [REDACTED] Yes, okay. And I understand that Mr. Flood is asserting at this
6 point a communications privilege and won't share the content of those conversations.

7 Mr. Flood. Yes. And if I might clarify, [REDACTED]. Forgive me for being what is
8 sometimes called a noodge. I want the record to reflect that we are not asserting the
9 privilege.

10 Mr. [REDACTED] Yes.

11 Mr. Flood. But we have an instruction from President Trump not to respond to
12 questions that may implicate the privilege.

13 And so my direction to Marc not to respond is not an invocation of the privilege,
14 but a protective measure to create a record in which the President may actually assert or
15 negotiate some resolution with your team.

16 Mr. [REDACTED] I understand.

17 Mr. Flood. Thank you.

18 Mr. [REDACTED] I appreciate that completely.

19 Mr. Flood. Thank you.

20 Mr. [REDACTED] Last question on this. Did the conversations that you indicated in
21 which Mr. Stepien and the President were involved, were those after the election? They
22 weren't before the election, they were after the election?

23 Mr. Flood. And you may -- as to timing, you may answer, if you remember.

24 The Witness. Both.

25 Mr. [REDACTED] Okay. Were there multiple conversations?

1 Mr. Schiff. I'm sorry. I'll be done soon.

2 Mr. [REDACTED] Yeah. That's okay.

3 Was there a single meeting or a conversation that you're referring to, or were
4 there a series of these conversations?

5 The Witness. As the Vice President's chief of staff, there were plenty of meetings
6 preceding election day where Bill would give a briefing about where the campaign stood.

7 Post-election day, it would have been far sparser as far as my participation in
8 those conversations, but, as I've indicated, I was present for at least one or two.

9 Mr. [REDACTED] I see. Okay. In which Mr. Stepien was providing his perspective
10 on the election?

11 The Witness. Among others, yes.

12 Mr. [REDACTED] Okay.

13 Mr. Schiff, go ahead.

14 Mr. Schiff. Thank you, Mr. [REDACTED]

15 Mr. Short, did Mr. Stepien have any role in the administration or was he purely on
16 the campaign side?

17 The Witness. He previously had a role. I believe he was director of political
18 affairs in the White House. He left that role to then move to the campaign at some
19 point in 2020.

20 Mr. Schiff. So at the point of the conversation that Mr. [REDACTED] was asking you
21 about, he was not a member of the administration in any way?

22 The Witness. I think there were both occurrences. There were times when I
23 was present when he still had his position in the White House and giving briefings, and
24 then there were subsequent times when not.

25 Mr. Schiff. But in terms of the conversation that Mr. [REDACTED] was just asking

1 about, at that point he was no longer with the administration, correct?

2 The Witness. He was campaign manager, correct.

3 Mr. Schiff. So, Mr. Flood, if I could, I want to clarify the scope of not the privilege
4 you're asserting, because you're not asserting a privilege, but rather the degree to which
5 you are deferring to the former President's potential claim of privilege.

6 Mr. Stepien was not a member of the administration. Are you respecting that
7 because you believe that he may properly assert a privilege over communications with
8 people who are not in the administration?

9 Mr. Flood. Boy, there's a lot there.

10 The instruction that we have is to observe the Presidential communications
11 privilege. The perimeter, outer border of that is something that I've not been given
12 advice on or not been given an instruction on, you know, for Mr. Short, and which I think
13 is probably not very settled in law, because there's so little law.

14 Your point has a, to my mind, significant force. If he's not in the administration,
15 he's certainly on, to take an example, a different footing than the President's chief of staff
16 when it comes to communications with the President.

17 But I do think, to answer at least one of your questions directly, Mr. Schiff, I do
18 think it's possible for the President to communicate with persons outside the
19 administration and have such communications be covered by the Presidential
20 communications privilege.

21 That's not to say that this is or that a court of last resort would draw that
22 conclusion in this context, but I do think that's possible.

23 And I don't know what else I can say except that we feel obligated to respect the
24 direction, with the understanding that it may not be so clear to a court and may require
25 further negotiation and resolution.

1 Mr. Schiff. So just to clarify, even though you don't believe in this context a
2 President speaking to a campaign manager would be protected by an assertion of
3 executive privilege, you're nonetheless going to instruct your client not to respond to a
4 question along those lines?

5 Mr. Flood. With respect, what you're calling a clarification of my observation is a
6 rewriting of my obligation.

7 At no time did I say that I did not regard Mr. Stepien's conversations with the
8 President as not covered. And I would be grateful if you would characterize my
9 statements consistently with their semantic content.

10 With that said --

11 Mr. Schiff. Well, then why did you characterize --

12 Mr. Flood. With that said, sir, with that said, I have no view, I have no view on
13 whether those communications are confidential.

14 I don't know who was there. I don't know what was -- or, rather, covered by
15 executive privilege and the executive communications component of it. I don't know
16 who was there. I don't know what all was said.

17 I do know from personal experience, and for what it's worth, that the President
18 wears many hats. He has several roles. He can be the leader of the party. He can be
19 the President of the United States in his official capacity. He can be a candidate.

20 I also know that it's a not infrequent occurrence that someone in that position
21 may be wearing two, three, or more hats in the same conversation. That would all need
22 to be sorted out.

23 So I have no, myself, no position, because I don't know enough about it. And if I
24 had a position, it wouldn't matter, because this is a question between President Trump
25 and President Biden and the committee.

1 Mr. Schiff. Mr. Short, why don't we clarify for counsel. You said, I believe, that
2 Mr. Stepien at the time of this conversation was not in the administration. Is that
3 correct?

4 The Witness. Can you repeat your question, sir?

5 Mr. [REDACTED]. Yeah. I think the question was, you can confirm that Mr. Stepien
6 at the time of this conversation was --

7 The Witness. Which conversation?

8 Mr. [REDACTED]. The conversations post-election in which Mr. Stepien provided
9 opinions about it. He was not at that time --

10 The Witness. Post-election, he was no longer a White House employee.

11 Mr. [REDACTED]. Okay.

12 Mr. Schiff. And who else was present during this conversation or conversations?

13 Mr. Flood. If you're aware of the conversation and --

14 The Witness. It would have been a wide group that would have included several
15 of the campaign lawyers and a couple White House officials, probably a group of 10 or 12,
16 collectively.

17 Mr. Schiff. And was the purpose of this meeting for the campaign officials to
18 give their opinion as to the President's rights or responsibilities vis-à-vis the counting of
19 the electors?

20 The Witness. My impression, it was to give an update on where the challenges
21 stood and what the prospects were moving forward.

22 Mr. Schiff. And that was a report from the campaign about where the challenges
23 stood?

24 The Witness. Yes, sir.

25 Mr. Schiff. And, Mr. Flood, given those circumstances, a report from campaign

1 officials about where the challenges stood with a campaign manager who is not part of
2 the administration, do you believe your instructions from the former President preclude
3 the witness from answering those questions?

4 Mr. Flood. I think the one-word answer is yes. We have an instruction. It
5 does cover communications with the President.

6 My own view is on what's known here is it's an unresolved question whether that
7 might at the end of the day be regarded as a Presidential communications privilege.

8 And for that reason, I think the better course is to persist in what I've advised my
9 client to do, and that is to forebear from answering until this can be sorted out in an
10 orderly way.

11 Mr. [REDACTED] And, Mr. Schiff, let me interject that in advance of the deposition,
12 Mr. Flood and I had a series of conversations about how we would approach privilege
13 assertions today.

14 We agreed that he would articulate with as much particularity as possible the
15 specific privileges at stake, while not asserting them, flagging them, that that would then
16 create a record on which we would have further discussions about whether those
17 privileges are valid, whether they need to be the subject of some sort of compulsion or
18 litigation.

19 But this does not necessarily end the record. Our intention is to flesh
20 out -- these are helpful questions because they do, in fact, flesh out the nature of the
21 objection.

22 But, to be clear, we agreed that today we would -- we would not seek a ruling
23 from the chair or to go beyond the stating of the objection.

24 Mr. Schiff. Very good. Thank you.

25 I'll yield back, Mr. [REDACTED]

1 Mr. [REDACTED] Thank you, Mr. Schiff.

2 Any other questions here before I move on?

3 Mr. Raskin?

4 Mr. Raskin. Thank you.

5 Mr. Short, can you just go back to explain the invitation. Was it to you or was it
6 to the Vice President to go to Pennsylvania to oversee some of the voting? I kind of
7 missed that. It went very quickly, and I was interested in it.

8 The Witness. The request was for the Vice President to do so.

9 Mr. Raskin. And what was the specific request, to go and do what?

10 The Witness. As I understood it, sir, there was a complaint that Trump election
11 officials were not allowed in the room where counting was happening of mail-in ballots,
12 and that having somebody of the stature of the Vice President would be able to cut
13 through some of the local bureaucracy and, therefore, allow somebody to oversee that
14 counting.

15 Mr. Raskin. I got you. So this was before the election took place?

16 The Witness. No, sir. No, sir. This was after election day, but as ballots were
17 still being counted in Pennsylvania.

18 Mr. Raskin. I see. Okay.

19 And this was before it was the subject of litigation.

20 The Witness. Yes, sir.

21 Mr. Raskin. I got you. And that request came from Mr. Stepien, is that right, to
22 you?

23 The Witness. No, sir, from Corey Lewandowski.

24 Mr. Raskin. I see. And this is where you recorded that you either didn't reply
25 or you may have sent back a negative reply. Is that right?

1 The Witness. I did at least share the request with the Vice President with my
2 unsolicited advice about that request. And I don't recall if we ever responded to Corey
3 with a final answer.

4 Mr. Raskin. Got you. And were there other requests for the Vice President to
5 participate in other States or other places in Pennsylvania in the same way?

6 The Witness. There was.

7 Mr. Raskin. So what were those?

8 The Witness. The same requests that Corey initiated of me, Mark Meadows
9 made of the Vice President as well.

10 Mr. Raskin. And then what happened to those requests? I mean, was it like
11 Wisconsin, Arizona?

12 The Witness. No, sir. They were only related to Philadelphia. I believe it was
13 Philly, a suburb of Philly, Pennsylvania.

14 Mr. Raskin. I got you. And so were those the subject of independent
15 conversations you had with the Vice President?

16 The Witness. We didn't have to discuss this very much, sir. It was roundly
17 dismissed.

18 Mr. Raskin. Okay. And was there any suggestion that you or other emissaries
19 of the Vice President would play that role, or did they just want Vice President Pence to
20 do it?

21 The Witness. I don't recall any other conversations.

22 Mr. Raskin. Okay. Thanks.

23 BY MR. [REDACTED]

24 Q Let me see if I can just get us to December 14th before we break.

25 On December the 1st, Attorney General Barr issued a statement. He declared

1 that the Justice Department in the weeks between the election and December 1st had
2 uncovered no evidence of widespread voter fraud that could change the outcome of the
3 2020 election. He made that statement in an interview with the Associated Press.

4 Do you recall when that -- Attorney General Barr made that statement, it was
5 widely reported, on December 1st?

6 A Yes.

7 Q Did you discuss that with the Vice President?

8 A Briefly, yes.

9 Q What was your reaction? What was his reaction?

10 A I think that, based upon conversations that we had had, not surprise with
11 the conclusion of the statement. But obviously understanding it would create turmoil in
12 other parts of the West Wing.

13 Q Yeah. Let me take two separate parts of that.

14 Were you aware that the Justice Department, Attorney General Barr, had
15 authorized investigations of credible allegations --

16 A Sure.

17 Q -- of election fraud?

18 A Yes.

19 Q Okay. And he had issued a memo to that effect in the days just after the
20 election?

21 A Yes.

22 Q So in the intervening time before the statement, were you following that or
23 were you aware of specific --

24 A We were not privy to how their investigations at DOJ were going.

25 Q I see. But you were aware that there were such investigations?

1 A We were aware that he had announced they were doing so, yes.

2 Q And had Attorney General Barr ever conveyed to you or to Vice President
3 Pence before his public statement that those investigations were not producing evidence
4 of systemic election fraud?

5 A Not to me. I can't certify that he didn't to the Vice President. They
6 potentially had independent conversations, but not to me.

7 Q I see. But you were not, nonetheless, you were not surprised that --

8 A Correct.

9 Q -- the investigations had not borne fruit or provided evidence of election
10 fraud?

11 A Correct.

12 Q Okay. You said then that you were -- the reaction to that or that that
13 statement would be not accepted or would be controversial. Tell me more about that.

14 A Well, look, I think that it was widely known that the President, after a hotly
15 contested election, was looking to fight on every level he could. And so certainly it did
16 not appear that that announcement had been coordinated inside the rest of the White
17 House.

18 So my assumption would be that, yeah, that would create consternation across
19 other parts of the West Wing.

20 Q At that point, December 1st, what was your understanding about the
21 relationship between Attorney General Barr and President Trump?

22 A I probably am not the best judge of that. I was usually not in the middle of
23 those conversations.

24 Q Did you have any sense that there was disagreement or that there was a
25 breach between --

1 A No. My only sense was that the President was very fortunate to have Bill
2 Barr as his Attorney General and that he had served admirably.

3 Q Do you know whether or not the December 1st statement caused a further
4 rift between those two men?

5 A I think that's been pretty apparent at this point.

6 Q Yeah. Okay. And, again, did it cause any -- did it have any effect on the
7 relationship between the President and the Vice President?

8 A No.

9 Q Around this time, the President is using the words Stop the Steal, and in
10 tweets and in statements there's the invocation of that phrase.

11 Did the Vice President make an affirmative decision about his use of those words
12 Stop the Steal?

13 A Did he make an affirmative decision about --

14 Q I don't want to put words in your mouth, but did he affirmatively decide that
15 he would not use those words?

16 A I don't think he used those words.

17 Q He did not use those words. And I'm wondering whether that was
18 intentional, whether that was the product of a discussion he had with you or a decision
19 not to repeat those words.

20 A He's generally very careful in the language he uses.

21 Q So did he make a conscious decision not to use --

22 A I have to assume that it was a conscious decision not to use that language.

23 Q Did you ever discuss that with him, you and the Vice President?

24 A I think one of the reasons that they formed typically a strong partnership
25 was because they communicated in very different ways. It wouldn't have been the first

1 time that they had chosen not to use the same language on an issue.

2 Q Okay. Did the Vice President ever say to you, "I can't use" -- "I don't like
3 that expression" or "I can't use those words"?

4 A He didn't need to. I knew he wouldn't use those words.

5 Q Why not?

6 A That's not the way that the Vice President would have communicated. But
7 I don't think he would have passed judgment on perhaps others using that language.
8 But that's not what he would have said, because I don't think he felt that without specific
9 hard evidence of fraud that he would want to make that allegation.

10 Q I see. He wouldn't use the word "steal" unless he was personally presented
11 with evidence that would support some intentional misconduct that would back up that
12 word?

13 A Correct.

14 Q I see.

15 Were you present for any discussions with campaign officials, Trump lawyers,
16 about the effect of that term, of the use of that term as a communications matter?

17 A I don't recall.

18 Q Okay. At some point did the President's lawyer, Mr. Giuliani, reach out to
19 the Vice President?

20 A I'm sure he would have, yes, but I don't have a specific record or recollection
21 of a call or a meeting.

22 Q Do you remember being present for any discussions between Mr. Giuliani
23 and the Vice President about --

24 A Not alone.

25 Q Okay.

1 A Certainly not alone.

2 Q At some point there's -- Mr. Giuliani forwards a letter from an assemblyman
3 in one State expressing concerns about the legitimacy of the vote. Do you recall that?

4 A I recall receiving a couple different documents, either from Mr. Giuliani or
5 from Boris or somebody else who had been emailing on Rudy's behalf.

6 Q And was that information purported evidence of suspicion of irregularities or
7 issues with the election?

8 A I never found anything that would provide concrete evidence.

9 Q Okay. The Vice President himself makes some statements between the
10 election and December 14th. Let me turn your attention to exhibit 2.

11 A In which book?

12 Q In the big book. And these are very brief.

13 I don't know if this is a video or not. It might just be an image of the tweet?

14 So the Vice President tweets on -- I believe this is December the 4th, "We're going
15 to keep fighting until every legal vote is counted. We're going to keep fighting until
16 every illegal vote is thrown out. And we will never stop fighting to Make America Great
17 Again."

18 Do you recall the context in which -- it looks like it's a clip from a public address
19 that he gave in Savannah, Georgia. Do you remember this tweet and the speech that
20 Mr. -- that the Vice President gave at that time?

21 A Not especially, but I think he used that language on multiple occasions.

22 Q And, again, does this reflect your discussions with him about his approach in
23 that period between the election and December 14th?

24 A Yes.

25 Q And what was that general approach?

1 A Well, I think that what he's stating here is what we should all aspire to, to
2 make sure that every legal vote is counted and every illegal vote is thrown out. I think
3 that that is consistent with what I hope we are all aiming to achieve in our elections.

4 Q Yeah. So we want to make sure that votes are counted or audited, that
5 there's litigation that would uncover credible allegations that there's election fraud?

6 A Right.

7 Q And the Vice President's supportive of that --

8 A Absolutely.

9 Q -- as it runs its course?

10 A Sure.

11 Q Okay. December 10th, at another Georgia rally, the President at a rally in
12 Augusta, Georgia, states, again, "We're going to keep fighting until every legal vote is
13 counted. We're going to keep fighting until every illegal vote is thrown out."

14 He also addressed a lawsuit at this time, Texas v. Pennsylvania, saying, "In the
15 last few days, 18 States have joined the Lone Star State to defend the integrity of our
16 elections before the highest court in the land. President Donald Trump deserves his day
17 in court, the Supreme Court. And all I can say is God bless Texas."

18 Do you remember discussions with him about the Supreme Court litigation Texas
19 v. Pennsylvania?

20 A Not about the specific litigation. Sure, I remember those remarks, though.

21 Q Okay. And, again, consistent with the Vice President's general view that
22 let's pursue litigation, let's pursue audits and recounts, make sure every legal vote is
23 counted?

24 A Yes.

25 Q And did that change on December the 14th, when the electoral college

1 meets?

2 A I think the objective was still the same, I mean. But, again, I think there
3 was a belief that process runs a course, with opportunities for recount, opportunities for
4 litigation, opportunities to challenge in other manners until the electoral college meets
5 and certifies.

6 Q Yeah.

7 A But, I mean, I imagine he probably continued to use similar language,
8 because that's what he believes.

9 Q Yeah. He did, as a matter of fact. Turning to the next tab, is exhibit 3, he
10 gives a speech on December the 22nd at Turning Point USA in which he again says,
11 "We're going to keep fighting until every legal vote is counted. We're going to keep
12 fighting until every illegal vote is thrown out."

13 So I guess my question is, even now, at this point, the electoral college had met,
14 the litigation had largely run its course, yet he continues to use the fighting to count legal
15 votes --

16 A Sure.

17 Q -- language.

18 A Well, I think that in his study of the Electoral Count Act, the way that he
19 views it is that the last step here is for Members of Congress to present evidence of fraud
20 if they wish, and would need to have not just a vote of the House but a separate, you
21 know, signature in the Senate to create that debate.

22 And that's, you know, it's certainly a privilege he wants to continue to fight and
23 protect and a privilege that, obviously, several members on this committee have used in
24 previous elections.

25 Q Yeah, I understand.

1 Did Vice President Pence have interactions with State officials during this period of
2 time about election-specific issues?

3 A He may have spoken to --

4 Mr. Flood. Can you hold on for a second?

5 [REDACTED], can you put a little more specificity on the time period piece?

6 Mr. [REDACTED] Yeah. Fair point, Mr. Flood.

7 BY MR. [REDACTED]

8 Q I'm talking about the period of time between the election and -- it doesn't
9 sound like December 14th is the controlling date, but by the end of the year. Does he
10 have those conversations?

11 A He would have had some conversations, yes.

12 Q Do you remember him speaking to Arizona Governor Ducey?

13 A When Vice President Pence was vice chair of the Republican Governors
14 Association he helped recruit Governor Ducey to run for governor. He views him as a
15 close friend. So I think he would speak to Governor Ducey frequently.

16 Q Do you know whether you had any personal involvement in that
17 conversation or the contents of it, the Pence-Ducey conversation?

18 A I would have been around for at least one.

19 Q All right. Tell us about it. What did the Vice President say or ask of
20 Governor Ducey?

21 A Ask of? I think it was more of a, what is the status?

22 Q I see.

23 A What is happening? If there's any contest to the election, what is the
24 prospect for that moving forward? Give me a perspective of you being on the ground
25 where this is likely to go.

1 Q I see. Is it fair to say that he's gathering information about activities in that
2 State versus directing or requesting activity?

3 A Yes.

4 Q All right. Does he have a similar conversation with Governor Kemp in
5 Georgia?

6 A He would have, yes.

7 Q All right. In Michigan, does he have conversations with State officials in
8 that State?

9 A I believe he did.

10 Q We understand that he was actually told by Michigan officials, "We don't see
11 enough fraud to alter the result." Do you remember hearing -- being present for that or
12 hearing about that?

13 A Yes.

14 Q All right. How about Pennsylvania, similar conversations with officials?

15 A I don't recall Pennsylvania.

16 Q Okay. At any time, do you know whether the Vice President asked any
17 State official to do anything, to take action, to do anything with respect to the election?

18 A I mean, his ask would have been to ensure the integrity of the election. So
19 I think it would have -- do what you have to do to make sure that all of the legal votes are
20 counted and illegal votes are thrown out.

21 Q I see.

22 A But I don't recall a specific request that went beyond more the information
23 gathering.

24 Q I see. Do you know whether or not anyone in the White House was aware
25 of this outreach or was coordinating it, Vice President Pence's outreach to State officials?

1 A Because of -- again, because Vice President Pence had previously been a
2 governor, and because in the midst of the COVID pandemic, as his role in charge of the
3 task force, he had weekly calls with all the governors, and he probably had a closer
4 relationship with Republican governors than anybody else in the building.

5 So there was -- there was frequently a request on -- made on his behalf to call -- to
6 call governors.

7 Q I see. I guess my question is sort of who was, to the extent anyone was,
8 coordinating that? Who was asking him to make calls to particular governors?

9 A The President would have asked him.

10 Q Anything else you recall about direct communications between the Vice
11 President and State officials, any other States or other people beyond what I asked you
12 about?

13 A I recall, again, I think it was the minority leader in the Michigan State Senate
14 and Kemp and Ducey. I don't recall others. But those conversations that he had
15 probably more than once were consistent.

16 Q Okay. In Georgia, for example, there had been several hand recounts of
17 ballots soon after the election, Secretary Raffensperger's office. Do you remember
18 whether or not that -- Governor Kemp conveyed that to the Vice President?

19 A I'm sure that Kemp conveyed here's where we are, here's what we're doing.
20 But I think that typically the message was frequently the same about lack of evidence of
21 specific fraud.

22 Q Yeah. The indication was from Michigan the Vice President was told
23 directly, "We don't see enough fraud to alter the result." Did you get a similar sense
24 that he got similar information about Georgia after the recounts about other activities in
25 other States?

1 A Yes.

2 Q All right. Never got any information that would suggest another result, that
3 there is systemic fraud, that --

4 A I think there was plenty of concerns that I think the Vice President
5 articulated when he would talk about -- the terminology he used for me was
6 "irregularities."

7 Q Yeah.

8 A And I think the concern there was often process and I think profound
9 concerns about State election officials stepping beyond I think their statutory
10 responsibilities or, again, unilateral decisions to send out mail-in ballots to much broader
11 audiences, or in some cases where a State statute requires matching signatures those
12 were waived.

13 So significant, significant concerns about process and believing that those should
14 be rectified legislatively at the State level, but not something you could point to and say
15 here is specific evidence of where something was stolen or something was fraudulently
16 done.

17 Q You're anticipating my last question. Is it fair to say that at no point did you
18 ever hear that in any of those conversations with State officials he was told that there
19 were sufficient -- there was sufficient evidence to cause that State's outcome into
20 question?

21 A Again, significant concerns about process, but nothing that would say, here's
22 something I can point to specifically that would flip the result of the State.

23 Q Got it. Okay.

24 Mr. [REDACTED] All right. Let me stop here, and we can take our break. But
25 before we break, let me just see if Mr. Schiff or Mr. Raskin or Ms. Cheney or anyone else.

1 We're about to get up to preparation for the joint session, but anything on the
2 questions that I just asked?

3 Mr. Schiff. I had a couple of quick followups, if I could.

4 Mr. Short, to your knowledge, did the Vice President have any conversations with
5 Brad Raffensperger at the time of the effort by the White House to challenge the votes in
6 Georgia?

7 The Witness. No, sir, not to the best of my recollection.

8 Mr. Schiff. And do you know when the Vice President would have become aware
9 of the call that the President had with Brad Raffensperger in which he asked the secretary
10 of state to find 11,780 votes? Would he have learned about that when the public did or
11 did he become aware of that -- that is, the Vice President become aware of that -- at
12 some earlier point?

13 The Witness. I don't think he would have been aware of it until it was public.

14 Mr. Schiff. Do you know whether the Vice President had any conversations with
15 White House Chief of Staff Mark Meadows, or did you, about the efforts underway to
16 persuade the secretary of state of Georgia to find votes for the former President?

17 The Witness. I did not, and I don't believe the Vice President did either.

18 Mr. Schiff. If I could just follow up on one thing from this morning that I
19 neglected to ask. You had mentioned, as I recall, Mr. Short -- and correct me if I'm
20 wrong -- that while you were in the secure location with the Vice President that the Vice
21 President also called the Attorney General, who I presume would have been then the
22 Acting Attorney General.

23 Can you tell us what that conversation was like?

24 The Witness. My recollection, sir, was that was the communal call toward the
25 end of the day/early evening when all law enforcement was brought together to say, "Do

1 we feel comfortable that this is secure? Do we feel comfortable that all resources have
2 been deployed to prevent anything further from happening?"

3 So I don't believe there was a one-on-one with Attorney General Rosen. I
4 believe that that was the broader call where it was, again, just to assure we've deployed
5 all assets that we can and, yes, we all are in concurrence that it is safe to proceed with the
6 proceedings tonight.

7 Mr. Schiff. Thank you. And do you recall what the Acting Attorney General had
8 to say at that point?

9 The Witness. I don't recall other than saying affirmative, that he agreed, and
10 that they had deployed some of their assets in law enforcement around the city. But
11 that was all I recall.

12 Mr. Schiff. And if I could, while I'm on the subject of the then Acting Attorney
13 General, did you or the Vice President become aware of efforts -- and, [REDACTED], this may be
14 the subject of other questioning later and I don't want to preempt that -- but to make use
15 of the Department of Justice to promulgate claims of massive fraud?

16 The Witness. No, sir, we were really not involved in those conversations.

17 Mr. Schiff. And is the same true of conversations about using the Department to
18 weigh in with Georgia and other States to urge them to either delay the sending of
19 electors or to send an alternate slate?

20 The Witness. We were not brought in any of those conversations.

21 Mr. Schiff. And so was the Vice President unaware of the machinations, for lack
22 of a better word, to change the leadership of the Department of Justice?

23 The Witness. He was not aware of any efforts to change personnel at the
24 Department of Justice.

25 Mr. Schiff. Thank you.

1 I yield back to you, [REDACTED].

2 Mr. [REDACTED] Thanks, Mr. Schiff.

3 Mr. Raskin or Ms. Cheney or Mr. Aguilar, I see. Anyone else before we break?

4 No? Okay.

5 Then why don't we take 30 minutes? Does that make sense? I think that's a
6 short lunch break but, hopefully, everything is --

7 Mr. Flood. Yeah. Let's keep pushing.

8 Mr. [REDACTED] Yeah. I appreciate that. Let's reconvene at 2:30.

9 Mr. Flood. Thank you.

10 Mr. [REDACTED] We're off the record.

11 [Recess.]

1

2 Mr. [REDACTED] We're resuming the deposition of Marc Short after a brief lunch
3 break. I see Ms. Cheney, Mr. Schiff, Mr. Raskin from the committee, and Mr. Aguilar,
4 have all joined us.

5 Mr. Short, we are now going to talk a little bit about specific preparation for the
6 joint session. Some of the discussions that you've referenced, we'll go into ideally a
7 little bit more detail, just kind of the lead-up and gearing up for the Vice President's
8 approach to that important task on January 6th.

9 But, predictably, over lunch break smart lawyers have followed up on a couple of
10 little things that we wanted to clarify. So let me ask Ms. [REDACTED] first. She had a couple
11 of things following up on some questions I asked that she wanted to clarify.

12 BY MS. [REDACTED]

13 Q Mr. Short, before our break you were giving testimony about calls that were
14 made by the Vice President or with the Vice President and various State officials. I
15 wanted to ask you a couple of clarifying questions about those.

16 You mentioned that it was your understanding that Vice President Pence had
17 spoken to Governor Ducey of Arizona. Do you know approximately how many times
18 they spoke during the time period between the November 3rd, 2020, election and
19 January 6th?

20 A I would imagine it was several, [REDACTED], but I think you have to keep in mind
21 they may not have all been focused on the election, because, again, the last couple
22 months of the campaign the Vice President was less day-to-day active on the COVID task
23 force.

24 And after election day he began resuming those meetings continually and doing
25 weekly calls with governors. And he may have had several followup calls with Ducey

1 about COVID response that could have bled into other questions.

2 So there would have been several, but not all of them would have been focused
3 on the election.

4 Q Understood.

5 Do you recall Vice President Pence speaking to Governor Ducey around the time
6 period that Governor Ducey certified the results of the election in Arizona, which I believe
7 would have been November 30th?

8 A I don't remember him speaking to him that day. He certainly probably
9 would have spoken to him in advance of that.

10 Q And do you remember, did the Vice President share with you the content of
11 the communications with Governor Ducey around --

12 A Some of those I was privy to.

13 Q What generally did Governor Ducey tell Vice President Pence -- or also
14 yourself -- on the calls about the state of the election certification in Arizona?

15 A The Governor explained what their measures were in Arizona and why he
16 felt that after their own internal audit of whatever sort that they had run a clean election
17 and was confident in the results that had been certified.

18 Q Okay. Did Governor Ducey share with Vice President Pence or with
19 yourself that the President, President Trump, had called him about the election during
20 this time period?

21 A He would have, yeah, but I don't think there was much of a conversation
22 about it. I just think it was an acknowledgement the President was unhappy with the
23 results.

24 Q It's been reported that the President called Governor Ducey on the day that
25 he was certifying the election. There's a video of him receiving the phone call at the

1 same time.

2 Do you know, did Governor Ducey tell the Vice President or yourself about what
3 communications he had with President Trump on that day?

4 A I don't recall that.

5 Q Okay. At any time, did Governor Ducey share with Vice President Pence or
6 yourself any specific requests or asks that the President had made about the election in
7 Arizona?

8 A I don't recall making any specific request.

9 Q Okay. What about the State Republican chair in Arizona? Did Vice
10 President Pence or yourself speak with Kelli Ward about the election?

11 A I had a conversation with Kelli Ward sometime in the period after Christmas.

12 Q Can you tell us about that conversation? What was discussed?

13 A She was one of the plaintiffs in a lawsuit against the Vice President. And
14 that was the context of that conversation.

15 Q Did she make any requests of the Vice President as far as his actions related
16 to the electoral college votes or the electoral votes of Arizona?

17 A No.

18 Q Did she discuss with the Vice President -- or with yourself, rather -- the
19 submission of an alternate slate of electors from Arizona?

20 A She did not.

21 Q You also mentioned that Vice President Pence had been in touch during this
22 time period with Governor Kemp in Georgia. Is that right?

23 A Yes.

24 Q Were you a party to any of those conversations?

25 A I think one.

1 Q And did the Vice President share any information about other conversations
2 he may have had with Governor Kemp with you? I mean with Governor Kemp.

3 A A similar scenario with Governor Ducey, where they would have probably
4 spoken on other occasions that I wasn't around. But it could have been COVID-related.
5 It could have bled into election conversations.

6 I think it was a similar conversation where, again, the Vice President would ask for
7 a status update. I think Governor Kemp reiterated his confidence in his election returns
8 and, you know, articulated the belief that Georgia -- losing Georgia was more a result of
9 perhaps some of the President's comments or missed opportunities than it was about
10 election fraud.

11 Q Did Governor Kemp make any statements in those conversations about calls
12 he had received from President Trump about the election?

13 A Not that I recall.

14 Mr. [REDACTED] Anything else? All right.

15 Mr. Short, I want to now, as I said, start to talk a little bit about specific
16 preparations for January 6th.

17 Let me start, if I can, with a Lincoln Project ad and ask [REDACTED] to pull it up. It's
18 exhibit 4. There's a very brief YouTube clip that I want to show you and ask you a few
19 questions about.

20 [Video shown.]

21 BY MR. [REDACTED]

22 Q The Lincoln Project was very active through the campaign, a group of former
23 Republicans that were very much against the administration.

24 When this came up, tell us if any discussion you had with the Vice President about
25 its content and its effect.

1 A Well, I think we were pretty dismissive of the Lincoln Project, viewed them
2 as basically grifters and really not that influential.

3 But I do think that it's my understanding that ad campaign ran predominantly in
4 Palm Beach and Washington, D.C., and those are the only two markets they ran it in.
5 And so, clearly, it was something the President had seen.

6 Q Was it your interpretation that it was intended to be direct -- an audience of
7 one, directed at the President?

8 A I believe so, but I -- I'm not involved with Lincoln Project in any way and
9 wouldn't know what their strategy was.

10 Q Did it -- I understand that -- but did it in any way, I guess, inform
11 preparations for January 6th or cause the Vice President or you to turn more emphatically
12 to an evaluation of what would happen that day?

13 A No. I think, if anything, it was the reverse and that it perhaps for some of
14 the people around the President began then to think about how January 6th could be an
15 important moment for some string theory about what the Vice President could do.

16 Q Do you know whether or not it was the ad that forced them to think so or
17 prompted them --

18 A I don't know that.

19 Q Don't know that.

20 Was there any discussion with the White House staff about the Vice President
21 reacting to, disagreeing with that ad?

22 A No. I think that the President expressed his displeasure, but nothing that
23 was formal like with our staff or about here's a strategy.

24 Again, if you looked up the ad buy, it was purchased in D.C. and Palm Beach. It
25 was -- what they were trying to accomplish I think probably was, as you said, probably for

1 an audience of one.

2 But, no, I think we were familiar with most of the grifters involved with that
3 project and knew that they were trying to make their personal living off of it.

4 Q Again, you said the President expressed his displeasure. Did he do that
5 publicly or did he do that privately to the Vice President or others?

6 Mr. Flood. That's a yes or no or one or the other without elaborating.

7 The Witness. Yes.

8 Mr. [REDACTED] Okay. And was there ever any discussion, prompted by the
9 President or otherwise, of the Vice President coming out publicly and contradicting that
10 or saying anything in response to the Lincoln Project ad? Was that debated or
11 discussed?

12 The Witness. Can I have one second with Emmet?

13 Mr. [REDACTED] Yes.

14 [Discussion off the record.]

15 The Witness. Can you repeat the question?

16 Mr. [REDACTED] I'm just asking whether or not there was any discussion of a
17 potential Vice Presidential response to that ad.

18 The Witness. I'm aware there was a discussion.

19 Mr. [REDACTED] And did anyone ask the Vice President to essentially contradict or
20 react to the ad?

21 Mr. Flood. Yeah. Well, if I may, [REDACTED]?

22 Mr. [REDACTED] Yes.

23 Mr. Flood. Setting aside conversations with the President and attending only to
24 the rest of the universe, was there any conversation involving responding/reacting to the
25 ad?

1 The Witness. Yes.

2 BY MR. [REDACTED]

3 Q Okay. The Vice President didn't, as far as we know, issue any kind of
4 response.

5 A Correct.

6 Q Tell us why not, in your view, in discussions with him, he chose not to
7 confront that or issue any kind of contrary statement?

8 A We viewed them as largely irrelevant. It shouldn't be dignified with a
9 response to their project.

10 Q I see. Okay. And, again, was there already, prior to this, this ad that airs
11 beginning on December 8th, was there a discussion before that about the Vice President's
12 authority to reject slates of electors or his powers on January 6th?

13 A Like we've discussed, I believe that Greg, in doing due diligence, had
14 researched a lot of analysis in this, but my recollection was that those conversations
15 really didn't become intentional until after December 14th.

16 Q I see.

17 A And after the electoral college met.

18 So I'm sure that there were, but I don't think that it was something that merited
19 significant time in our office, other than being aware of what his constitutional role was
20 that day if and when we get to that point.

21 Q Yeah. So the discussions about his authority and the certification really
22 ramped up or started getting more intense after the December 14th?

23 A Yes.

24 Q Okay. The discussions with the parliamentarian, were there some prior to
25 December 14th? Did Jacob or you reach out to the parliamentarian to get information

1 about the procedure?

2 A I don't recall.

3 Q Okay.

4 Okay. So the meeting of the electoral college on December 14th, we've talked
5 about the significance of that. Do you remember talking to the Vice President on that
6 day or soon thereafter about the significance of the December 14th meeting of the
7 electoral college?

8 A Sure. I mean, I think it was an important moment. And I think that at
9 that point there was belief that, again, as you run through challenges and litigation and
10 every other avenue, that even if there's not an agreement with the results, an acceptance
11 of what they were.

12 And I think, you know, that Mark Meadows had conveyed his push to get the
13 President to concede. So, you know, certainly there was a belief that December 14th
14 could be a seminal moment, but when that didn't happen then I think we were pretty
15 much understanding that a lot of focus would be on January 6th.

16 Q Yeah. Tell us more about Mr. Meadows pushing the President to concede.

17 A I don't know what else he did. That's just what he had shared about efforts
18 to get to that point.

19 Q Tell us more about that. What did he share?

20 A There wasn't much more that he shared with me.

21 Q Did he share with you that he was pushing the President to concede?

22 A Yes.

23 Q Before or after the December 14th?

24 A Around December 14th.

25 Q I see. So, again, I don't want to put words in your mouth, to Mr. Meadows,

1 December 14th, a significant event and led potentially to him pushing the President to
2 concede?

3 A Potentially. I'd been told a lot of different things from Mark Meadows,
4 who had told a lot of different things to a lot of different people. So I can't say I put
5 enormous credence in that conversation.

6 Q Yeah. Let me ask you more about that generally, Mr. Meadows'
7 discussions with you directly, Mr. Short, about pushing the President to do -- to concede.

8 Were there multiple conversations with you --

9 A No.

10 Q -- in which Mr. Meadows told you that that was his intention?

11 A No.

12 Q Just one?

13 A Just one in passing.

14 Q And was that in person? On the phone?

15 A In the hallway.

16 Q And, to the best you can recall, what words did he use when he told you
17 that?

18 A "I'm trying to get him to concede."

19 Q Okay. And it was around December 14th?

20 A Yeah.

21 Q In the White House?

22 A Uh-huh.

23 Q Okay. He never said anything before or after that to you, Mr. Meadows,
24 about that topic?

25 A No.

1 Q Did he say --

2 A But, I mean, like I said, I'm perfectly aware that a lot of people who were
3 advising the President were facilitated or brought into the White House by Mark. So I
4 didn't put much weight in him telling me that he was trying to get the President to
5 concede.

6 Q Okay. Do you know whether or not other people were trying to get the
7 President to concede? Did anyone else tell you that they, similar to Mr. Meadows, were
8 purportedly trying to do that?

9 A I think there were others who gave their perspective of where the race stood
10 or where the litigation stood. I'm not familiar with others who specifically said, "I told
11 the President he needs to concede."

12 Q There's reporting, for instance, that Jared Kushner was in that category, was
13 one of the voices encouraging the President to concede.

14 A I wouldn't be aware.

15 Q Did he ever say anything like that to you?

16 A He did not.

17 Q How about Mr. Cipollone or Mr. Philbin in the White House Counsel's Office,
18 any idea whether they had given the President that advice?

19 A If they did, it was not shared with me.

20 Q Okay. How about the Vice President, do you know whether he gave the
21 President that advice?

22 Mr. Flood. If I may, [REDACTED]?

23 Mr. [REDACTED] Yes.

24 Mr. Flood. Do you know whether the President -- whether the Vice President
25 advised President Trump on the question of whether he should concede, yes or no?

1 The Witness. Yes.

2 Mr. Flood. Okay. Well, we can't go any farther than that.

3 Mr. [REDACTED] I understand.

4 BY MR. [REDACTED]

5 Q Let's just talk about the Vice President's personal view, set aside what he
6 told the President.

7 What was your understanding, that as of the certification -- or, excuse me, the
8 meeting of the electoral college, what did the Vice President think the President should
9 do with respect to conceding the election?

10 A I think the Vice President believed that the President should pursue all legal
11 avenues, and he had that right.

12 But at the same time, that there was a great opportunity to travel the country in
13 the last couple months and to talk about all that had been accomplished in those 4 years,
14 whether or not it was judicial, efforts to protect life, efforts we'd done on tax relief,
15 efforts we'd done to secure the border, that there was an amazing story to tell, and that
16 that would be a productive way to spend the last couple months, to travel the country
17 and to talk about those amazing accomplishments.

18 Q As opposed to the election?

19 A That it would be a great way to spend the last couple months, would be to
20 talk about all that we'd done in the last 4 years.

21 Q And, again, in your conversations you had with Vice President Pence, his
22 view was that would be the best way for the President to spend his time?

23 A That would be a great way for the President and the administration to spend
24 their time.

25 Q I see. President --

1 A If you look at the Vice President's schedule, you would see that he
2 reconvened COVID task force meetings at least once a week, if not multiple times a week.
3 He did travel and give some of those speeches and spent a significant amount of his time
4 in Georgia trying to win those Senate races.

5 Q The President did not do that, correct, travel the country talking about
6 accomplishments, but rather continued to talk about the election? Fair to say?

7 A Those are your words. I think it's probably fair.

8 Q Let's turn to exhibit 5 in your binder, which is December 16th, 2 days after
9 the electoral college.

10 This is a document we received from the Archives, which is a draft executive order
11 that would authorize the -- essentially the military to seize voting machines, and indicates
12 that there was indications of foreign interference in the election and that these voting
13 machines somehow would produce evidence of that.

14 Do you remember any discussion of this draft executive order that would
15 authorize the seizure of voting -- of election machines?

1

2 [2:55 p.m.]

3 The Witness. I do not recall any conversation about this document or anything
4 related to seizing of voting machines.

5

BY MR [REDACTED]

6 Q Okay. The very last page of it, if you could look, Mr. Short, it's at page 4 of
7 the exhibit. When it was produced to us from the archives, it had this what looks to be a
8 yellow sticky pad --

9

A Uh-huh.

10

Q -- that was affixed to the document, and it says from the VP to Pat C.

11

Any recollection of the Vice President somehow being involved in any discussion

12

of this document with Pat C or anyone else in the White House?

13

A None at all.

14

Q Okay. So unfamiliar to you?

15

A Entirely unfamiliar, and I do not know why that note would be attached to

16

that document.

17

Q Yeah. Before you saw it, when Mr. -- when I gave it to Mr. Flood,

18

did -- were you familiar with it at all?

19

A I saw it in press reports over the last couple of days.

20

Q I see. But not when you -- during your time in the administration had you

21

seen --

22

A No.

23

Q -- or had any discussions about this?

24

A No.

25

Q Okay. Do you remember any general discussion about the seizure of voting

1 machines?

2 A Only in press accounts.

3 Q Okay. But not in meetings or discussions that you had with the Vice
4 President or otherwise?

5 A I don't recall being in any meeting that that was discussed other than what I
6 read in press accounts.

7 Q Okay. All right. Exhibit 6 is yet another document that we received from
8 the archives which is on the same topic. It's more of a sort of memo that goes into the
9 specific reasons for that executive order. Do you recall ever seeing this document
10 during your time serving in the administration?

11 A I do not have recollection of it.

12 Q Okay. Rather than the document, setting aside the document, it talks
13 about allegations regarding foreign interference in the 2020 election. Do you recall
14 general discussions with anyone about potential foreign interference in the election?

15 A Only what I've read in the press.

16 Q Okay. How about the appointment of a special counsel to investigate
17 allegations of election fraud? Do you remember discussing -- set aside the document,
18 discussions of that topic?

19 A I do not.

20 Q With the Vice President or otherwise.

21 A I do not.

22 Q You never -- did you ever recall hearing about Sidney Powell or the Louisiana
23 Attorney General as names that could be people appointed special counsel?

24 A I did not.

25 Q Okay. Exhibit 7 is a document that is entitled Operation Pence Card,

1 December 23rd, and it looks like a memorandum for the President that puts forth some
2 kind of proposal by which the Vice President could -- we have some email about this.

3 Okay. Let me just ask you first if you recall seeing this during your service at the
4 end of the administration?

5 A I do not.

6 Q Do you have any idea of the origin of it?

7 A I do not.

8 Q All right. Are you -- do you know Army Reserve Colonel Ivan Raiklin,
9 R-A-I-K-L-I-N?

10 A I do not.

11 Q Are you familiar with that name? No. All right. Let me ask Ms. [REDACTED]
12 she can shed some light on this through an email that we just got yesterday.

13 Ms. [REDACTED] If you could look at the other binder, please, the document behind
14 Tab 4. Again, since you haven't seen this, please take a minute to review it and let me
15 know when you're ready.

16 Mr. Flood. [REDACTED], do you know, is the text of the email below the White House
17 sort of letterhead looking font, is all that below that what is -- appears at Tab 7 of the big
18 binder?

19 Mr. [REDACTED] I think so.

20 Ms. [REDACTED] Yeah. We have not done a comparison since we just got this, but I
21 think that is our assumption.

22 BY MS. [REDACTED]

23 Q This is an email that looks like it was sent from Ivan Raiklin, the gentleman
24 that Mr. [REDACTED] just mentioned, to you on December 24th, 2020. Do you have any
25 recollection of receiving this email?

1 A I do not. Often, if it was an unidentified source coming in, it may have
2 been quickly deleted or moved to spam.

3 Q And why is it that you think this would have been unidentified source?

4 A I'm not familiar with an Ivan Raiklin.

5 Q Got it. Okay. Do you ever remember anyone discussing the concept of a
6 Pence card with you during this time period?

7 A A Pence card? Can you help explain that a little more?

8 Q I wish I could. That's mentioned in this document, as well as the subject
9 line of this email that we've sent you that -- that showed you that says time sensitive,
10 hours urgent, title USC Section 12 maneuver, quote, Pence card, closed quote, by
11 midnight.

12 A No.

13 Q Okay.

14 BY MR. [REDACTED]

15 Q The second page of the actual memo which is either -- you can either look at
16 it in the email or Exhibit 7, let me just call your attention to the line that starts judgment.
17 It says, all these factors above inform and contribute to the Vice President's analysis in
18 deciding that he, as the representative of the Federal seat of government, did not receive
19 a constitutionally permissible slate of electors. For that reason, he is not only duty
20 bound to request that the States send certificates and lists as required by Title III, USC,
21 Sections 9 and 11, from electors that were appointed in the manner that the State
22 legislators directed as soon as possible. He is also the sole plenary power that has the
23 authority to make this determination.

24 So did the Vice President engage in any such analysis and make any such
25 conclusion?

1 A I'm not aware of any such analysis nor reach -- I think it's pretty evident we
2 did not reach that conclusion.

3 Q It's evident from your prior testimony that you actually reached the opposite
4 conclusion. Yes?

5 A And the events that occurred.

6 Q Yes. And, again, this Pence card memo looks like sent to you but it sounds
7 like did not affect in any way the Vice President's analysis or actions?

8 A It did not.

9 Q Okay. It also includes a sample letter that was offered as something that
10 the Vice President himself could send to State legislators or Secretaries of State. I take
11 it, again, he sent no such letters?

12 A I'm not aware of him sending any such letters.

13 Q Yeah.

14 A And it's certainly possible that when, you know, you receive unsolicited
15 things of this nature, it's possible I forwarded this on to Greg. I don't know. But I don't
16 recall focusing too much attention on it.

17 Q Yeah. Okay. Let me turn away from the memo and just go back briefly to
18 Mr. Kushner. There's just -- again, there has been some public reporting that indicates
19 that shortly after Christmas, Short called Kushner and requested that Kushner confront
20 Trump about the President's belief that Pence was able to decertify the election come
21 January 6th. Short reportedly reached out to Kushner because he, Kushner, had been
22 saying that the election was over in private. After pleading with Kushner to speak to
23 Trump, Kushner ultimately declined, saying that he was really focused on the Middle East
24 right now and hadn't been involved in the election stuff since Rudy Giuliani came in.

25 That is -- again, I'm not sure what the source of that is. That may have been in

1 the New York Times article or Peril. I'm not -- frankly not certain, but do you recall any
2 such discussion between you and Mr. Kushner about the -- whether the election was or
3 was not over?

4 A I do not recall having a conversation about whether the election was or was
5 not over with Jared.

6 Q Okay. Any discussions with Jared at all about the election?

7 A After Christmas, I called Jared because I think it was apparent that we were
8 on very different paths with the President and some of his counselors, and Jared was also
9 helpful, usually helpful in providing advice as to how to navigate that. And so it was -- I
10 think perhaps the way that's framed in the story, I would take objection to, but I do think
11 that I was calling, seeking his advice.

12 Q Okay. Tell us about the conversation. What kind of advice did you seek,
13 and what advice did he give?

14 A Well, again, I was seeking advice about seeing a President and a Vice
15 President who had worked phenomenally well together for 4 years, obviously on very
16 divergent paths and looking for his guidance about navigating that internally in the White
17 House.

18 Q What did he say?

19 A He did communicate that he was very busy solving Middle East peace at the
20 moment and that with Rudy's involvement, he was less involved in these conversations.

21 Q So, essentially, your reporting is accurate that he said, I'm sorry, in effect, I
22 can't help?

23 A I think he felt at that point, the circumstances were beyond his ability to
24 impact them.

25 Q Okay. And when you say that the President and the Vice President were on

1 a different course, it was about the Vice President's authority? Is that the specific issue?

2 A Yeah. About heading into January 6th, yeah.

3 Q Okay. Did you know whether or not Mr. Kushner said the election was over
4 to others? Did you hear --

5 A I did not hear that.

6 Q I know you said he never told you that, but did other people tell you that
7 that was Mr. Kushner's view or that he had said that to other people?

8 A I was -- no. I don't recall him sharing that sentiment. It may well be his
9 sentiment. I just don't recall us having that conversation.

10 Q Okay. Did you reach out to anyone else, Mr. Short, about this -- the same
11 thing that motivated your call to Mr. Kushner, the President and Vice President being
12 essentially on different courses? Did you seek any other advice or talk to anyone else
13 about that?

14 A I'm sure at some point, it was pretty apparent, but I don't recall a specific
15 conversation I had with Jared on that.

16 Q Do you remember talking to Mark Meadows about that?

17 A Yes.

18 Q What was his reaction?

19 A It was more that the President thinks that Mike can do more.

20 Q Meadows conferring -- conveying to you the President's position that he
21 thinks that Mike can do more with respect to the certification?

22 A Right.

23 Q Okay. Did he give you any advice or give you a sense as to how you should,
24 you and Mr. Pence, Vice President Pence should handle that or should navigate that?

25 A No. I mean, I think that -- as I mentioned, I think that the Vice President

1 has shared that fidelity of the Constitution with the President on multiple occasions.

2 And while he was always, I think, open to anything else the President asked him to look at
3 or a willingness to entertain any other discussions or review anything else that his legal
4 team provided, he still was unpersuaded that, again, our founders had created some
5 extraordinary power for the Vice President of the United States in overseeing this session
6 of Congress.

7 Q Yeah. At any time from when this -- that topic was first raised to January
8 6th, did he ever waver? Was he ever uncertain --

9 A No.

10 Q -- about where he stood with respect to the constitutional provisions?

11 A No, he did not.

12 Q He was unfailing from the beginning. He didn't have the authority to
13 unilaterally reject slates of electors or delay --

14 A From the very beginning, he articulated that he would be happy to look at
15 anything and would want to be judicious in it but said, I don't think I have that authority --

16 Q Yeah.

17 A -- from the very first conversation. And it became even more clear, the
18 more that they studied the history and the more that I think Greg provided, you know,
19 historical counsel, legal analysis.

20 Q And did he -- back to Kushner, Meadows, anyone else that you recall,
21 Mr. Short, you talked with about this conflict and this sort of looming intersection on
22 January 6th?

23 A Not that I recall.

24 Q Okay. Do you know if the Vice President sought similarly advice about how
25 to navigate this breach?

1 A I think the Vice President always believed there's wisdom in numerous
2 counselors, so I think he certainly would have spoken to other people. In some cases,
3 those would have been initiated by him. In some cases, others who just reading the
4 news stories would have called him to say this is the way I see it.

5 Q Yeah. Did he ever recount to you any such conversations where he got
6 wisdom or counsel from others?

7 A Sure.

8 Q I mean, I'm going to ask you about Vice President Quayle, for example.
9 Were there others beyond that conversation?

10 A There were others.

11 Q Who?

12 A He had conversation with Speaker Ryan.

13 Q Okay.

14 A He had a conversation with Vice -- former Vice President Quayle. I
15 mentioned I think there were -- there were probably many others.

16 Q Do you remember any other specifics besides Speaker Ryan and Vice
17 President Quayle?

18 A No.

19 Q Tell us about the conversation with Speaker Ryan. What do you remember
20 hearing from the Vice President about that discussion?

21 A Well, I spoke to the Speaker first. I -- when he was trying to reach the Vice
22 President, he was otherwise detained, and so I took the call. And having been in the
23 legislative affairs role before was pretty familiar with him, and I think he was just calling
24 to -- because the press at that point -- I think the Vice President, even though he had
25 made it clear to the President where he stood, he wasn't out looking and seeking media

1 traction about his position.

2 So I think for some media reports, there was confusion as to where he would end
3 up. And I think there was some who had concerns and wanted to offer their two cents.
4 And Speaker Ryan wanted to call and say, you know, you don't have any greater
5 authority, and I said to him, Mr. Speaker, you know Mike. You know he doesn't -- you
6 know he recognizes that. And we sort of laughed about it, and he said, I get it. And he
7 later spoke to the Vice President too to I think have the same conversation.

8 Q All right. So both Speaker Ryan and former Vice President Quayle
9 reinforced Vice President Pence's view that he had no authority to --

10 A Right. That's my understanding. I was not part or privy to it, to the
11 conversation with former Vice President Quayle, but that was my understanding as well.

12 Q Understood. Okay. There were a couple of lawsuits filed that I want to
13 ask you about. There was first -- and this is Exhibit 8 in your binder. I'm not going to
14 ask you --

15 A Which binder?

16 Q The big binder. Sorry. I'm not going to ask you to look at this other than
17 the title pages. It's Wisconsin Voters Alliance versus Pence. It was filed on December
18 the 22nd. It was a Motion for Preliminary Injunction. It sought to enjoin and prevent
19 certain States from certifying their presidential electors and counting their votes.

20 Do you recall the filing of this lawsuit and any discussion with the Vice President
21 about it?

22 A I do not recall.

23 Q Nothing about the Wisconsin case?

24 A Not that I recall.

25 Q Okay. The next case that's filed is the next tab. It's No. 9. It's the

1 Gohmert versus Pence case. It was filed just a few days later on December 27th of
2 2020, and this sought to grant by the Vice President the exclusive authority and sole
3 discretion under the 12th Amendment to determine which electoral votes to count for a
4 given State.

5 Do you remember this litigation being filed and discussions with the Vice
6 President about it?

7 A Yes.

8 Q Tell us about it. What did -- what do you recall?

9 A Roughly, the timing was such that the Vice President was out of town, and
10 it's -- at the time you receive it, it's after Christmas. You're getting close to January 6th.

11 Q Uh-huh.

12 A At this point, a lot of White House staff are in transition or out. And so
13 receiving a lawsuit at that timing in light of the profile was certainly something that
14 consumed a lot of time and energy in our office.

15 Q Okay. There was a motion filed by the Department of Justice to essentially
16 dismiss this case against the Vice President. Do you recall discussions about the
17 dismissal and who -- whether the Justice Department was the right entity to file that
18 motion?

19 A Well, we always felt the Department of Justice was the right one to
20 represent the Vice President's office. Greg had previously worked in OLC in a previous
21 Republican administration, so he had plenty of -- much more familiarity with folks at DOJ,
22 so he was point in having those conversations. He certainly briefed me on them.

23 Q Yeah.

24 A But, yes, we felt that in response, DOJ should take the lead.

25 Q Okay. Was there any concern about DOJ taking the lead if the President

1 himself as the head of the executive branch actually wanted this relief sought or may
2 disagree with the position of dismissal of the Vice President?

3 A Sure. There was, but there was also an overriding belief that DOJ was the
4 appropriate entity to respond.

5 Q I see.

6 A So even if there were that understanding that the President may have a
7 different viewpoint, it wasn't a deterrent of how we thought this should be responded to.

8 Q Is it your impression that the Department of Justice was going to file this
9 motion because it was the one compelled by law regardless of what the President
10 personally wanted?

11 A Well, I think there's a protection of the Office of the Vice Presidency as well,
12 and so, yeah. I think it's -- it was important, in our minds, that the Department of Justice
13 take the lead in responding.

14 Q Okay. Were you personally involved, Mr. Short, in any of the discussions
15 with the folks at Justice about this lawsuit?

16 A I probably was on one or two conference calls, but really, I would get my
17 briefing updates from Greg.

18 Q So, Mr. Jacob, fair to say, was sort of the lead --

19 A Yeah.

20 Q -- the point person for the Vice President?

21 Do you know a man named Jeffrey Clark? Have you ever heard that name?

22 A I've heard the name.

23 Q Yeah. I understand you've probably heard the name from news reports.

24 But at the time, were you familiar with Jeffrey Clark?

25 A I was not.

1 Q Okay. Do you remember know -- do you know whether or not he was
2 personally involved in any discussions about the Gohmert versus Pence case?

3 A I don't believe that he was.

4 Q Why --

5 A I know he signed it, but I think that -- I don't believe that our office had any
6 conversation with him throughout this whatsoever, that it's because of his title that he
7 was the appropriate one to be responding to the suit.

8 Q I see. But you don't recall him being substantively engaged --

9 A I do not.

10 Q -- on the merits of the motion or the lawsuit?

11 A I do not.

12 Q Okay. And I believe you testified in response to Mr. Schiff before that you
13 didn't have any awareness of potential leadership changes at the Department of Justice?

14 A We did not.

15 Q All right. Mr. Clark was, at some point, proposed as a potential
16 replacement for Jeff Rosen. Do you have any --

17 A I've read about that, but we were not privy to those conversations in
18 real-time.

19 Q Okay. I understand.

20 All right. And then after the filing which resulted in the dismissal of the Vice
21 President, was there any -- did you get any feedback that the President himself was
22 displeased or was unhappy about that result?

23 A I did not.

24 Q All right. The case was dismissed. It was -- the motion dismissed was
25 granted on Friday, January 1st, so Mr. Pence the Vice President, was no longer a

1 defendant in that case as of, and again, no feedback from the White House, from
2 President Trump or otherwise?

3 A I did not have feedback.

4 Q Okay. Now, when it comes to objections to electoral votes, December
5 the 30th is when I believe Senator Hawley announced publicly that he intended to object
6 to the results, the first Senator --

7 A Uh-huh.

8 Q -- who says I'm going to object. Until then, our understanding is it was
9 unclear whether any Senator would come on. What was the significance of the Hawley
10 announcement on December the 31st?

11 A Well, the significance is it puts the Vice President in -- more in a central role
12 because if there's objections on the House floor that are not matched by a Senator, then
13 they're ruled out of order.

14 Q Uh-huh.

15 A Once you find a Senate match, then you open up a whole other level of
16 debate. So -- and there was also an assumption that, candidly, once one did, others
17 would follow.

18 Q Yeah. Were there any discussions between you or Vice President Pence
19 and Senator Hawley before this announcement?

20 A In any way about this, I don't recall that.

21 Q About this.

22 A I think that Senator Hawley and the Vice President had been on friendly
23 terms, so I'm sure they would have interacted at Senate lunches or other places, but I
24 don't remember a specific conversation between them about his intention to object.

25 Q Okay. And my question is whether Senator Hawley alerted you or the Vice

1 President, hey, I'm going to object?

2 A Not that I recall. It's possible that someone on his staff alerted our
3 legislative affairs staff. That's quite possible --

4 Q Okay.

5 A -- but I don't recall.

6 Q Do you know whether or not the White House or any -- President Trump or
7 others working on his behalf in any way solicited or encouraged that objection?

8 A As I recall, the President was pretty public in his encouragement of looking
9 for objections.

10 Q Uh-huh. Do you remember any specific discussion about Senator Hawley?

11 A I don't.

12 Q Okay. On that very same day, December the 30th, there's a meeting in
13 your office with some House Members about objections. Do you remember that?

14 A In my personal office or the Vice President's office?

15 Q I believe it was in your personal office.

16 A On December 30th with Members of Congress or with staff?

17 Q With staff from House Members planning to pursue objections to slates of
18 electors.

19 A Yes.

20 Q Tell us what you recall. First of all, how did that meeting come about? At
21 whose request was it scheduled?

22 A I don't recall whose request it was.

23 Q Do you remember who attended?

24 A There were a couple staff from Mo Brooks' office.

25 Q Okay. Tell us about the discussion. What happened at the meeting?

1 A They explained what they intended to do as far as their efforts to object, and
2 I think of note was we had a conversation about the Vice President's role. And, you
3 know, there, at that point, had been very public discussions about some of these theories
4 about how he could unilaterally throw out slates of electors.

5 And their staff expressed that they didn't want that course either, that they felt
6 the proper role was for Congress to object, and that if the Vice President were to have
7 that sort of authority, it would supersede their efforts, and it was Congress' role to
8 present their challenges. And so I think they were pleased that our office was not
9 sympathetic to the arguments that the Vice President had supernatural powers in this
10 case.

11 Q I see. So there was a line, as far as you can recall, in that meeting with
12 Congressman Brooks' staff and you and Mr. Jacob that the Vice President's role was to
13 allow a debate to play out in Congress, that that's the place for this discussion?

14 A Yes.

15 Q Okay. Let me ask Ms. [REDACTED] to ask you about a particular email that
16 reflects more about --

17 Mr. Flood. Can I ask a clarifying question?

18 Mr. [REDACTED] Yeah. Of course.

19 Mr. Flood. Was Mr. Jacob in that meeting? I don't think we had a predicate for
20 that.

21 The Witness. I believe he was.

22 Mr. Flood. Okay.

23 Mr. [REDACTED] Yeah. I didn't clarify that. Ms. [REDACTED] is about to.

24 BY MS. [REDACTED]

25 Q Yeah. There may be a document that helps on that. It's behind Tab 3 in

1 the second binder. This looks like an appointment, like a calendar invitation. Is that
2 consistent --

3 A That's what it looks like, yes.

4 Q -- with your reading here? I see the date is December 30th, and it has
5 external meeting. Is this referring to the same meeting that we were just discussing?

6 A I like it when it confirms my memory and recall as well, so thank you.

7 Q All right. It does look like it was held in your office, and the participants in
8 the the subject line include M.S., yourself, Greg, G.J. for Greg Jacob, and C.H. presumably
9 for Chris Hodgson. Is that right?

10 A Yes.

11 Q Any other participants, external participants other than the three who are
12 listed who look like two members of Representative Mo Brooks' staff as well as an
13 individual identified as a Republican staffer from the House Judiciary Committee?

14 A I don't recall anybody else being there.

15 Q Okay. And can I ask one clarifying question? In the substance of the
16 meeting, you said that you remember that there was an alignment between the
17 perspective of these House staff members and OVP about the Vice President's role with
18 respect to objecting and allowing debate to proceed.

19 But was there a position taken by the House staff members about what should
20 happen after the debate, about what the Vice President's role should be after Congress
21 engaged in debate about the electoral votes?

22 A I think there was an alignment that we were, both sides, reading the
23 Constitution the same way and the Electoral Count Act the same way, that it did not
24 afford the Vice President supernatural powers. And so I think we were aligned on what
25 the role of Congress was and what the role of the Vice President's office was.

1 Q Was there any discussion in this meeting on December 30th about the
2 possibility of what you've described earlier to us as sort of the fallback position of sending
3 things back to the States?

4 A Not that I recall. I think that the conversation was really more for them to
5 say, here is what we plan to do, and out of that was an outgrowth of recognizing that we
6 viewed the Vice President's role the same way.

7 BY MR. [REDACTED]

8 Q On the subject of Senators coming forward to object, did you have any
9 understanding as to Senator McConnell's position on whether or not it would be prudent
10 or appropriate for Senators to object to specific slates of electors?

11 A I think that Senator McConnell was hopeful that Members would not object
12 because I think that he felt it would split their conference, and I think he was trying to
13 keep their conference together.

14 Q How do you know that, Mr. Short?

15 A Based on my conversations with his Chief of Staff.

16 Q Okay. So the Chief of Staff told you that he didn't want any Senators to
17 object?

18 A They were having conversations independently with Senators. I don't
19 know. I can't say to what extent they were saying, don't do this, but they -- I think they
20 were trying to walk them through and say a recognition that once one broke, others could
21 break as well, and the concern that, again, that that would divide their conference.

22 Q Cause a split within the Republican --

23 A So their, I think, belief was without specific evidence of fraud, then their
24 hope would be that members would not look to go that path.

25 Q Yeah.

1 Ms. Cheney. [REDACTED], can I ask a question?

2 Mr. [REDACTED] Yes. Please, Ms. Cheney.

3 Ms. Cheney. I just wanted to go back to the Mo Brooks staff meeting, Marc, if
4 you don't mind.

5 The Witness. Yes, ma'am.

6 Ms. Cheney. You said that the meeting was mostly for the staff to explain to you
7 what they planned to do. Can you give us some details about that?

8 The Witness. Sure. I don't think it was much more than simply saying, we plan
9 to object here, and here is the several States where we've worked with other House
10 Members to object, and we've been working with and trying to find Senate matches.

11 But, again, my takeaway from the conversation really was one of agreement about
12 the Vice President's role because I was perhaps looking at it more parochially. And as
13 we went through the conversation, our statement that we really think the Vice
14 President's role here statutorily is fairly limited and I think them feeling relief because
15 they viewed it the same way and said, this is our job statutorily to provide these
16 objections, not the office of the Vice President.

17 Ms. Cheney. And so did they explain to you where they thought this would go?

18 The Witness. No. I think they -- not that I recall, Congresswoman. I think that
19 there was a belief that we have several matches. I don't think there was a sense that
20 there would be perhaps a majority in any State to change a result, but they didn't know at
21 that point. They were still what, a week away, so they were still in the process of
22 whipping votes.

23 Ms. Cheney. Did they suggest to you that they thought this election would be
24 thrown into the House?

25 The Witness. That -- I'm sorry. That what would be thrown into the House?

1 Ms. Cheney. That the choice of who the President would be would be ultimately
2 decided by the House.

3 The Witness. I don't recall that conversation. I know that there were various
4 theories that said, again, that if the Vice President threw out certain electors, you could
5 get under a threshold of 270, and then the House votes, and you could get 26 delegations
6 to support a different result. But I don't recall that being a part of this conversation.

7 Ms. Cheney. I'm just asking because Mr. Brooks has been very public about the
8 extent to which he believed he had a path to get the election thrown into the House of
9 Representatives. And so I'm wondering, again, setting aside the issue of agreement as
10 you're describing it on the Vice President's role, whether they discussed or described for
11 you exactly how he thought he was -- how the staff believed they were going to get the
12 election thrown into the House.

13 The Witness. I did not sense in that conversation a confidence that that would
14 be the end result.

15 Ms. Cheney. So your view is they were just looking for a way to discuss their
16 objections?

17 The Witness. That they wanted, I think, to be on the same page with our office
18 about their process and where the Vice President would be.

19 But again, this is 7 days out, so I do think that they were hopeful that they would
20 get additional members to support their plans. But I -- I'm just telling you I didn't sense
21 a higher level of confidence that they were going to get there?

22 Ms. Cheney. Okay. Thank you.

23 BY MR. [REDACTED]

24 Q I just want to go back to your conversation with Senator McConnell's Chief of
25 Staff. Who was that, first of all?

1 A Sharon Soderstrom.

2 Q All right. So in your discussions with Ms. Soderstrom, you mentioned that
3 her -- she conveyed to you that Senator McConnell was discouraging Senators from
4 objecting in the absence of evidence. Is that right?

5 A That's my recollection.

6 Q The whole key here is evidence. Isn't that right, Mr. Short, that the bottom
7 line is that the only way that a debate in the House or the Senate matters is if there's
8 actual evidence of voter fraud sufficient to call that slate of electors into question, right?
9 Wasn't your focus on evidence the entire time?

10 A I can tell you that the Vice President articulated on many occasions his
11 concern about irregularities and we've talked about some of those, of matching
12 signatures, of extending universal mail-in balloting.

13 We never saw specific evidence, and so I think everybody has judgment on their
14 own, as I said. I think there have been members of your committee who have objected
15 to certification with rather flimsy evidence in the past, whether or not that was
16 Bush-Cheney or whether or not that was Trump-Pence, so each Member has their own
17 obligation.

18 Q Yeah. But, again, the objection is to bring forth evidence, is to bring forth
19 on the floor of the House or the Senate actual information that would suggest not just
20 irregularities but evidence that the slate of electors put forth was somehow not accurate
21 or didn't reflect the will of the people, and that never appeared. Is that right? That
22 such evidence?

23 A I don't get a vote. I didn't see that evidence.

24 Q Okay. And did Ms. -- did Mr. McConnell's Chief of Staff during those
25 conversations say, Senator McConnell is encouraging people not to object because there

1 isn't evidence, because there isn't -- it isn't there? Is that effectively what --

2 A I don't -- I don't know what her internal conversations were. I don't -- like I
3 said, I didn't get the impression that they were whipping against it. I got the impression
4 these were more -- the Senate is a very different body. I think these were more collegial
5 conversations in Senate lunches and one-offs --

6 Q Yeah.

7 A -- trying to keep everybody on the same page.

8 Q Right. Because a divisive -- some object and some don't -- and, again, in
9 the absence of evidence that would lead to a different result could be divisive, could be a
10 bad thing?

11 A Right.

12 Q Okay. At any point during those conversations, were you ever made aware
13 of such evidence that would cause you or the Vice President to doubt the result in any
14 particular State?

15 A I think, as I said, we had sincere concerns about processes that we think
16 were broken, and I think you've seen since election day the Vice President be supportive
17 of State legislative reform efforts. But the Vice President also was very clear in saying
18 that in his analysis, our Framers actually articulated this very clearly in the Federalist
19 Papers that their concern was foreign interference in elections. And if you centralize
20 elections in Washington, D.C., it would make it a lot easier for foreign governments to
21 interfere. Obviously, at that time, you're talking about a very different foreign
22 interference.

23 But it's for that reason they empowered States to determine their elections, their
24 election processes and codes, and that's what he's fought to preserve is to say if Georgia
25 or Texas or Arizona wishes to change it, they should be afforded that ability without

1 Federal Government interference, assuming civil rights aren't broken. And that's been a
2 very consistent posture that he's maintained, and I think a very limited government
3 conservative posture that a lot of us in our office embraced. And so that is the States'
4 roles. If the State has certified the election results, then his role is to open and count,
5 and statutorily, it is that specific.

6 Q Right. Totally understand. I'm just making a distinction between
7 concerns about process, irregularities and actual evidence --

8 A Correct.

9 Q -- that there was fraud such that the count as reported was inaccurate.

10 A Correct.

11 Q There were concerns about irregularities and process issues, but never at
12 any time, December 30th or otherwise, were you ever made aware of evidence that any
13 State --

14 A I did not --

15 Q -- actually --

16 A -- see evidence that the campaign brought forward to suggest something
17 specific about fraud or theft that would overturn a specific State's results.

18 Q Okay. You actually issued yourself, Mr. Short, a statement on Exhibit
19 No. 10. You -- in a tweet that's reflected from Jim Costa, he attributes to you on this
20 very point, the statement from VP Pence Chief of Staff Marc Short, the Vice President
21 shares the concerns of millions of Americans about voter fraud and irregularities in the
22 last election.

23 And it continues. The Vice President welcomes the efforts of members of the
24 House and Senate to use the authority they have under the law to raise objections and
25 bring forward evidence before the Congress and the American people on January 6th.

1 Why did you feel the need on January 2nd to issue this statement?

2 A I think that this statement was more a reflection of our office and believed it
3 would be better that it come from me as opposed to Vice President Pence at that time.

4 Q Why is that?

5 A Just because there was a lot of different swirl around where he stood, and I
6 think that it was important for us to state this is the way that we see it. So
7 you're -- what you see reflected is me articulating what the Vice President shares.

8 Q Yeah.

9 A And I think that it's consistent with his other remarks and public speeches,
10 that he welcomed the efforts of House and Senate to use the authority they have to bring
11 objections and to bring forward evidence, and that's why it very specifically states that.

12 Q Right. Precisely. I mean, this is consistent with what the Vice President
13 himself had said, that -- bring forth objections. That is the way the process is supposed
14 to work, but also, bring forward evidence, and that was the posture going into January
15 6th. Give Congress a chance to bring forth evidence of voter fraud. Not concerns
16 about process, but evidence of fraud.

17 A Yeah.

18 Q Is that right?

19 A Yes.

20 Q Okay.

21 Mr. [REDACTED] All right. Let me stop and see if anybody else has questions on
22 this, if Mr. Raskin or Mr. Aguilar or Ms. Cheney again. Any follow-up on this?
23 Ms. Lofgren is on as well.

24 Mr. Raskin. Yes, if I might.

25 Mr. Short, I wanted to be clear on one thing. Was your office taking the position

1 that it was not the role of the Vice President, either statutorily or constitutionally, to
2 unilaterally reject electoral college votes submitted by the States under certificates of
3 ascertainment provided by the governors?

4 The Witness. Yes, sir. It was our position that the Vice President's office does
5 not have authority either under the Constitution or the Electoral Count Act to unilaterally
6 throw out State certified electors.

7 Mr. Raskin. And I appreciated the prior question about evidence because what
8 you stated, it seems to me, was a structural deference to the States under our system of
9 Federalism to perform their own electoral processes and then to allow the -- those
10 processes to play out and the governors finally to send in the certificates of
11 ascertainment.

12 Even at that point, you're saying evidence could have been offered, conceivably, in
13 this process that would have changed the minds of the decisionmaker, that is, the two
14 houses of Congress. But did you -- did your office provide any structured opportunity
15 for the campaign to furnish evidence in advance of January 6th that they wanted you to
16 consider?

17 The Witness. I'm not aware of any evidence that the campaign had, and I'm not
18 aware of any evidence the campaign shared with our office that would have again
19 provided specific evidence of theft or fraud that would have had a material change in any
20 of the States.

21 Mr. Raskin. So this was not even a close question for you because you had seen
22 no such evidence.

23 The Witness. I think that we had significant concerns about ways that we felt
24 some of those State laws had been violated by certain State election officials. But that,
25 again, as I've said, is a process argument. And, ultimately, if the States have certified

1 their results and have gone through a litigious process, and the courts have not
2 determined there's a different result, that ultimately under our Federalist approach, we
3 have to defer to the States.

4 And, God forbid, we wouldn't want it a different way where you have a more
5 powerful Federal Government, or I think that we actually fought a revolution to prevent
6 the authority of only one person determining the outcome.

7 Mr. Raskin. Did anyone from the President's office or from the campaign proffer
8 any principled argument against what you have just articulated?

9 The Witness. Not that I heard.

10 Mr. Raskin. Okay. Nothing else. Thanks.

11 Mr. [REDACTED] All right. Thank you, Mr. Raskin.

12 On that last point -- I'm sorry. No, no. Please.

13 Mr. [REDACTED] I was going to talk about something that he addressed earlier.

14 Mr. [REDACTED] Let me just finish.

15 BY MR. [REDACTED]

16 Q Mr. Raskin just asked about the White House putting forth any contrary
17 evidence. There are a couple things I just want to point out to you in the tabbed
18 exhibits. No. 11, if you could turn to that. On that very same issue, Mr. Meadows
19 sends you an email. This is dated January 1st, just the day before your statement.
20 Marc, this is an idea that Jenna Ellis wanted to put before the VP, and if you turn to
21 Exhibit 12, it's a one-page memo to the President from Jenna Ellis. And I won't ask you
22 to read the whole thing, but it says six States currently have electoral delegates in
23 dispute.

24 And the second paragraph directly says, on January 6th, the Vice President should,
25 therefore, not open any of the votes from these six States, and instead, direct a question

1 to the legislatures in each of those States and ask them to confirm which of the two slates
2 of electors have, in fact, been chosen in the manner the legislature has provided for
3 under the Constitution.

4 This memo from Jenna Ellis -- first of all, do you remember receiving this from
5 Mr. Meadows and having any discussion with the Vice President about it?

6 A I remember receiving it. I believe I forwarded it to Greg. I presume Greg
7 and I had conversations about this. As I've mentioned in previous testimony, it was my
8 belief that there were two separate tracks about novel theories about the Vice
9 President's role. And when the one track was exhausted about unilaterally discarding
10 electors, this was the track that then was adopted.

11 Q I see. So this is the pivot where, hey, if the Vice President can't unilaterally
12 pick a slate, he can send it back to the States?

13 A That's the way I interpreted it, yes.

14 Q Did you agree with that, disagree with that? Did that change the Vice
15 President's position in any way?

16 A It did not change the Vice President's position.

17 I think -- again, to Congressman Raskin's question, I think that our interpretation
18 of the statute and the Constitution was clear as to what his role was. And there may be
19 novel ideas or other ways of saying, here, let's try and get to a different end, but there
20 was -- there's not the means for the Vice President to do this.

21 Q Understood.

22 Similarly, from the White House, Tab 13 in the big binder, this is a note that I
23 believe Mr. Schiff or Mr. Aguilar asked you about before. This is probably our only
24 realistic option because it would give Pence an out, and it's signed Johnny. It's on White
25 House stationery.

1 A Uh-huh.

2 Q And then the following page, which is Exhibit 14, this is a document -- these
3 were documents produced by the White House. They both appear, Mr. Short, to be
4 torn and reconstructed in roughly the same place in the paper. Our assumption has
5 been that Exhibit 14, Pence can let the States decide, was what was attached to
6 Exhibit 13, the only realistic option.

7 And then just looking at Exhibit 14, Mr. McEntee is indicating that the Vice
8 President doesn't need to declare Trump the winner or reject all the votes. There's a
9 middle path that is a way out for everybody. On January 6th, the Vice President could
10 only accept half the electoral votes from the disputed States instead of all, this
11 justification being this mirrors the popular vote of the States so no one is disenfranchised.
12 He then goes on to say what would unfold in that event which is essentially kicking the
13 election to the House of Representatives.

14 Do you remember whether or not you received this Pence can let the States
15 decide document?

16 A I don't recall receiving the document specifically.

17 Q Do you remember discussion of that idea put forth in the memo, that the
18 Vice President could accept only half of the electoral votes, kicking it into the House for
19 their resolution?

20 A Yes. As I mentioned in our previous conversation with Congresswoman
21 Cheney, that we were aware of that argument that if you get the threshold below 270,
22 then it reverts back to the House. And I think that the calculation had been that it's
23 not a straight up vote, so each State gets one vote --

24 Q Right.

25 A -- based upon their delegation, and that it would be 26 Republican States in

1 theory, assuming none switched, that would then reelect the incumbent. But as I've
2 mentioned, I think that we did not put much credence in these after looking at the
3 statute and the language, and I think it's -- you know, there's some in the press accounts
4 question about, you know, at what point did Pence reach this resolution.

5 I think this continues to confirm that he was clear from the start which is why
6 people were looking for other ways to get around his decision that he was not going to
7 use a broader power.

8 Q I see. So did he consider that and other theories and keep coming back to
9 the same place, that he just did not have that authority?

10 A Again, I think that when you say, did he consider, he was always willing to
11 look at something that the leader of the free world asked him to look at. Always. But
12 he was resolute in understanding what his oath to the Constitution was.

13 Q Yeah. If you or he got something from Johnny McEntee with a note like
14 that, would you consider that to be coming directly from the President of the United
15 States?

16 A I might. It depends.

17 Q What was the relationship between the President and Mr. McEntee?

18 A I think it was pretty close, but I think that my relationship with Johnny was
19 pretty close too. So there was other stuff that Johnny could send me. It depends on
20 the topic as to whether or not I interpreted it's from the President or not.

21 Q Yeah. My last exhibit that I want to show you on this line is No. 15, and
22 that is a handwritten note that we received from the archives that is on -- it says Chief of
23 Staff is the printed stationery. It says brief POTUS Marc Short on VP role for Jan 6, 2021.

24 I know this isn't -- I assume this isn't your document. This isn't something that
25 you -- you are a Chief of Staff as well, but this is not your handwriting, right?

1 A It is not my handwriting.

2 Q Right. We presume it's Mr. Meadows. Did you have any discussion with
3 him about briefing the President on the Vice President's role for January 6th?

4 A No. My assumption is this is his internal note to just remind him he needs
5 to brief the President on these matters.

6 Q And, again, the significance of you, does that reflect that he had talked with
7 you?

8 A Well, I think we had been clear as to what the Vice President's role was. I
9 think the Vice President had been clear with the President. I think I had been clear with
10 Mark Meadows.

11 Q Okay. Had -- I guess you -- again, you're anticipating my question. Had
12 you been clear repeatedly with Mr. Meadows about you and the Vice President having a
13 different view about his authority on January 6th?

14 A I believe I had.

15 Q Did Mr. Meadows ever explicitly or tacitly agree with you or say, yeah, that
16 makes sense, or okay?

17 A I believe that Mark did agree.

18 Q What makes you say that?

19 A I believe it's what he told me. But as I mentioned, I think Mark had told so
20 many people so many different things that it was not something that I would necessarily
21 accept as okay, well, that means that's resolved.

22 Q I see. Tell me more what he told you on this topic.

23 A Well, I think it was that you know the Vice President doesn't have any
24 broader role, and I think he was understanding of that.

25 Q So despite the fact that he may have said other things to the President or

1 others, to you, he said he understands that --

2 A Yes.

3 Q -- the Vice President has no role?

4 A Yes.

5 Q Okay. Did he say that to you several times?

6 A A couple times.

7 Q Uh-huh. Before January 6th?

8 A Yes.

9 Q All right. Go ahead. 43. I'm sorry. I know I told you that that was my
10 last question on this, but there's one I forgot. I want you to turn all the way to the back
11 at No. 43 in the big binder, and it's been reported, I believe, in Betrayal. This is where
12 the source of this is, that Mr. McEntee sent a -- sent you a text, I believe, and the text of it
13 is recounted in the book as a reference to Jefferson. Jefferson used his position as Vice
14 President to win, and he goes on to talk about what the Vice President did.

15 Do you recall getting a text like this from Mr. McEntee?

16 A Yes.

17 Q All right. And what, if anything, did you do when you received that
18 information purporting to have a historical reference to Jefferson?

19 A I think that I know my severe limitations, and one of them is not being a
20 lawyer, but I, myself, could even read this and recognize its absurdity. So what I would
21 say is that this was an argument that was articulated in other places as well, so it -- I
22 wouldn't put as much significance on the text because I believe that Mr. Eastman made
23 these same arguments.

24 Q Uh-huh.

25 A But we did our analysis of this and looked at these two. We found that

1 these -- there were two. One was Jefferson, but there was a separate one in Nixon and
2 found that neither one really applied.

3 Q Yeah.

4 A And forgive me for pretending to act like I know my history, but you know, in
5 1801, it was our understanding that Jefferson, when we did the research, accepted the
6 slate from Georgia when there was a clerical error, but nobody questioned whether
7 Jefferson won Georgia.

8 Q Yeah.

9 A It was a very different situation. It preceded the 12th Amendment. A lot
10 had changed, so it -- historically, it's really out of context.

11 Q Uh-huh.

12 A And in 1961 when Richard Nixon was in that position, Hawaii was the first
13 time that I believe that they had been able to vote in a presidential election. And so
14 their first result was in Nixon's favor because the election went for Kennedy, and Nixon's
15 in the chair. We noted that he -- a separate slate had come in.

16 Again, it's a very different historical analysis, and we tried to articulate that it
17 wasn't just a random slate, it was another certified slate that came in, giving it to
18 Kennedy. And in that discussion, Nixon says to the Congress, in the best interests of the
19 country, I think we should afford these votes to my opponent, and in a very magnanimous
20 way, you know, forwarded the revised results to Kennedy.

21 Q Right.

22 A Those were historical examples that were thrown at us to say the Vice
23 President has the ability to unilaterally decide, and we don't believe that historically,
24 either one of those examples is congruent with the situation we faced in 2020.

25 Q Pretty good for a non-lawyer.

1 So the 1801 example is very different from 2021 because that was a clerical error
2 that Jefferson just corrected, right?

3 A Right.

4 Q No clerical error in 2021?

5 A There may have been but not that we know of.

6 Q Yes. And in the Kennedy example, there were two slates that were both
7 certified by the Hawaii Secretary of State. We didn't have that situation in 2021.

8 A Correct.

9 Q All right. So, again, not exactly --

10 A Again, I think that informs the questions we had about the Vice President's
11 parliamentary language, recognizing that was an historical precedent too.

12 Mr. ██████ Okay. Any other questions? ██████, do you want to go ahead and
13 jump in?

14 BY MR. ██████

15 Q Did you have any conversations with anybody about why Senator Hawley
16 was objecting to certain electors?

17 A Did I have any conversations with anybody, ██████. I'm sure that when it was
18 objected, we had a staff conversation about, you know, okay, Hawley's objected. Do we
19 know why or for whom, but I don't remember them actually having any consequence to
20 anything we were doing.

21 Q Okay. So you never heard from Senator Hawley or anyone on his staff or
22 anyone on McConnell's staff about why Senator Hawley was doing this?

23 A We -- I did not, but as I said before, it's perfectly plausible that Hawley's staff
24 would have let our legislative affairs team know they were doing this. It just -- I don't
25 recall it getting to me.

1 Q And do you know whether Senator Cruz was planning to also object before
2 Senator Hawley announced on December 30th that he was going to object?

3 A I don't mean to divert. I just think you have to ask Senator Cruz that. I
4 don't know.

5 Q Okay. But not to your knowledge?

6 A Correct.

7 Mr. [REDACTED] How are we doing on time? Do we need 5 minutes, or are we
8 good?

9 Mr. Flood. Keep going?

10 The Witness. I'm good.

11 Mr. [REDACTED] Okay.

12 Mr. Flood. Let's keep going.

13 Mr. [REDACTED] Okay.

14 BY MR. [REDACTED]:

15 Q A couple more things on January 2nd. It looks like on January 2nd, there's
16 a meeting with the Vice President at the residence. I believe he came back from
17 vacation either that day or the day before, and there's discussion -- well, tell us if you
18 recall that meeting in the residence upon the Vice President's return from vacation.

19 A I know the Vice President returned a day early from his scheduled vacation,
20 but we had a lot of meetings at the Vice President's residence, so I don't -- you have to
21 give me more information about attendees.

22 Q Well, it looks like you, Mr. Jacob, and the Vice President essentially talked
23 and confirmed that despite all of the outreach that the Vice President did not have
24 authority to reject electoral votes and that there was then discussion of drafting a letter
25 to that effect.

1 A Yes. So as I recall the conversation, I was of the mindset that there should
2 be a public statement that explains how we reached this conclusion.

3 Q Yeah. And why was that important? If he was going to do the right thing
4 on January 6th anyway, why was a public statement important?

5 A I think it was important for the record. I think, unsurprisingly, I'm not real
6 confident in our news cycles getting the information correct --

7 Q Uh-huh.

8 A -- so I wanted it in his own words.

9 Q Yeah. Did he agree; Vice President Pence?

10 A I think that my recollection was I was arguing for a public statement. Upon
11 reflection, he's the one that said, I want to do an open letter to Congress.

12 Q I see.

13 A So I think there was agreement on the need for a public format.

14 Q Right.

15 A I think that format changed from what I recommended to what he ended up
16 with.

17 Q Okay. And he was the one, he, Vice President Pence, who decided that the
18 right forum for that --

19 A Yes.

20 Q -- would be an open letter to Congress?

21 A Yes.

22 Q Okay. Did he task anyone in particular with drafting that letter?

23 A I think he tasked Greg and myself, but Greg's a much stronger writer, so I
24 was happy to allow him to take the draft.

25 Q So Greg, then, upon leaving that meeting, was the one that was tasked with

1 drafting the ultimate letter that went as an open letter to Congress?

2 A Yes.

3 Q Okay.

4 A I offered a few edits here and there, but yes.

5 Q Okay. There was also apparently that day, January 2nd, a meeting with
6 President Trump, six or eight GOP Members of Congress, and the Vice President. Do
7 you recall that meeting?

8 A I do recall a meeting with several Members of Congress.

9 Q Were you personally present for the meeting as well?

10 A If my recollection is correct, there was a meeting in the Oval --

11 Q Yes.

12 A -- that had then adjourned out into the cabinet room. And I was a
13 participant at that point because I was asked to come down and join that conversation by
14 the Vice President, so I was part of the after conversation.

15 I don't recall at what point the Vice President -- I don't think the Vice President
16 was there at the initiation of the Oval Office meeting. I think he joined, if I recall, at the
17 end, and then the meeting spilled over into the cabinet room.

18 Q Who was present when you were there in the cabinet room?

19 A There was a handful of congressional members.

20 Q Do you remember who they were?

21 A I remember some of them. Congressman Jordan, Congresswoman Brooks,
22 but I don't remember all.

23 Q All right. Who else was present besides Congressman Jordan and
24 Congressman Brooks?

25 A I don't recall. I don't recall.

1 Q The Vice President was there?

2 A The Vice President was there, sure.

3 Q Was the President there?

4 A No.

5 Q Okay. So he didn't join the cabinet room discussion?

6 A He did not.

7 Q All right. Tell us about the discussion, then, in the cabinet room with those
8 Members of Congress.

9 A I think it was somewhat similar to our conversation with Mo Brooks' staff --

10 Q Uh-huh.

11 A -- where I think that they were making the argument as to how they
12 intended to bring objections, and I think that the Vice President was supportive of their
13 right and statutory ability to bring objections.

14 Q Uh-huh.

15 A There was not conversation about -- really about the Vice President's role in
16 that.

17 Q It was more about the Congress -- Members of Congress putting forth
18 evidence --

19 A Yeah.

20 Q -- on the floor of Congress?

21 A Evidence or, again, process objections.

22 Q Uh-huh. Did you have a sense that the President had been asking these
23 Members of Congress or soliciting objections, objectors?

24 A Do I have sense of that?

25 Q Did they say that?

1 A As I mentioned, I think that the President was pretty overtly soliciting that
2 publicly from House and Senate Members. He was imploring them in the press and
3 other places to object.

4 Q Okay. And at that point, was there discussion of the need for additional
5 Senate objectors? Senator Hawley had already announced he intended to object.

6 A I think there was discussion about them looking for additional objectors,
7 sure.

8 Q Okay. Did you have a follow-up conversation with the chief of staff to
9 Congressman Brooks after the meeting in the cabinet room?

10 A I don't recall that.

11 Q Okay. That same day on January 2nd, 11 more Senators announced their
12 intention to object. Beyond Senator Hawley initially, do you remember any discussion
13 with Senator Cruz or Senator Tuberville or any of the others who announced that
14 intention?

15 A I do not recall a conversation with them.

16 Q Did that have an impact on the Vice President's expectations for or approach
17 toward January 6th?

18 A I think it continued to elevate that more and more objectors meant that it
19 was going to be a more and more significant day, but I don't think it impacted his position
20 about what his role was that day.

21 Q Yeah. The specific announcement on January 2nd was from these 11
22 Senators, we intend to vote on January 6th to reject the electors from disputed States as
23 not regularly given and lawfully certified unless and until that emergency 10-day audit is
24 completed.

25 So at this point, Senator Cruz, I believe, injects this idea of a pause for 10 days or a

- 1 continuance for 10 days to conduct some kind of audit. Do you recall a discussion of
- 2 that?

1 [3:57 p.m.]

2 The Witness. As I mentioned earlier, when I think [REDACTED] asked me the questions
3 and conversations about audits before, I don't remember who initiated them. My sense
4 was, January 2nd, it was really less about that day. But it was -- Hawley I think was the
5 30th, correct?

6 BY MR. [REDACTED]

7 Q Right.

8 A And then so then you've got New Year's Eve, New Year's Day, that was the
9 first day back for people.

10 Q Okay.

11 A So I think the concern from some Senate Members was voiced that once
12 that dam breaks there's going to be others that follow. And I think January 2nd was
13 probably the natural next time for Members when they're back in D.C. to state they are
14 going to object to.

15 Q Right. So Senator McConnell has not been successful in discouraging
16 Senators from --

17 A Once I think that one broke it was like the others would too.

18 Q Okay. Anything else you recall about the meeting with the Members
19 themselves or the Senator's announcement from that day?

20 A No.

21 Q One more event on January 2nd is a Zoom call with State legislators.
22 There's about 300 State legislators who participated in an electronic meeting at which the
23 President spoke for 15 minutes. Mr. Giuliani, Mr. Eastman, Mr. Navarro, and John Lott
24 and Phill Kline participated.

25 Do you remember being present for --

1 A I don't recall participating in that.

2 Q Do remember hearing anything about it?

3 A No, I don't.

4 Q Do you know who John Lott is, L-o-t-t?

5 A I believe I'm familiar with some of his writings, but I did not encounter him
6 through this.

7 Q Through the election discussion?

8 A Correct.

9 Q How about Phill Kline?

10 A I read about him in the press, but I don't recall encountering him through
11 these conversations.

12 Q Okay. Didn't have any interaction with him through this period.

13 A Not that I recall.

14 Q Okay. All right.

15 And that ultimately, I believe, results in a letter from about a hundred State
16 legislators to Vice President Pence which requests a delay in certification. It's actually
17 exhibit 24 in your binder. This is a result of that electronic meeting on January 2nd.

18 The letter's actually dated January 5th. It's to Vice President Pence. It's signed
19 by those legislators. I believe it ultimately is signed by about a hundred. And it
20 requests a delay in certification.

21 Again, the same question I asked you about all of this. Did this -- do you
22 remember receiving this? Did it -- was it discussed with the Vice President, change his
23 approach in any way?

24 A I don't recall it having any impact on his approach. I think it is probably
25 something that sounds softer about, "Hey, I'm only asking for a delay." But I think it's

1 not understanding what the statute requires and why it's not something [inaudible].

2 Q Yeah. Attached to the letter there's the Navarro report. There is some
3 information that is from The Amistad Project.

4 Do you recall being familiar with any of those documents or the information
5 contained therein?

6 A No, sir.

7 Q Okay. All right.

8 I was going to move then to the meeting with the parliamentarian. But let me
9 stop and see either Ms. [REDACTED] or Mr. [REDACTED] or members have any questions.

10 BY MS. [REDACTED]

11 Q I just had one quickly.

12 Mr. Short, you were describing the meeting with Members of Congress that you
13 participated in after it recessed from the Oval Office into the Cabinet Room.

14 Similar to a question we asked you about the meeting with staff a few days before
15 that, what was your sense of what the Members who were present in the Cabinet Room
16 expected to be the outcome of the process that they were describing going through on
17 January 6th?

18 A I think they felt that more and more concerns were raised publicly, that they
19 would get more and more colleagues to join their objections. They didn't know where it
20 would -- they didn't know if it would be successful. I think they articulated that
21 uncertainty.

22 But it was more a sense of here's what -- you know, efforts we're undertaking to
23 convince our colleagues to join us in this effort.

24 Q And was there any discussion at that meeting about the evidence that might
25 be presented during the process of, you know, the objections and the debate that would

1 follow?

2 A I recall a dissatisfaction that the campaign had not produced more evidence
3 for them. But I don't recall there being significant conversation or in-depth conversation
4 about what that evidence was or what it was lacking.

5 Q When you refer to the campaign not producing evidence, was there any
6 discussion of some evidence that they had received from the campaign and an
7 assessment of the --

8 A No.

9 Q -- credibility of it?

10 A I don't recall them commenting on what they had received. I just think that
11 for them in those conversations they'd been informed that the campaign will provide the
12 evidence. So I think their expectations were that they would be getting something.

13 Q And did they say or do you know otherwise who they expected to be
14 prepare -- be presenting that evidence on behalf of the campaign?

15 A I don't. I don't know who they -- who it would have been.

16 Mr. [REDACTED], do you have anything?

17 Mr. [REDACTED] No.

18 Mr. [REDACTED] Okay.

19 Ms. Cheney. [REDACTED]?

20 Mr. [REDACTED] Yes. Sorry, Ms. Cheney. Go ahead.

21 Ms. Cheney. I wanted to make sure -- and I think, Mr. Short, you were very clear
22 on this earlier -- I just want to make sure for the record that it's clear that there
23 are -- there's no basis in the Constitution for the Congress to decide it's going to overturn
24 the results of an election based upon evidence presented on the floor of the House.

25 And your point earlier about the extent to which this had been litigated, that, you

1 know, we had 60 courts, I don't remember if you said the number or not, but the
2 President had gone through a process that he was completely -- he had the right to go
3 through, the campaign had the right to go through.

4 But I want to make sure we don't go too far down the path of thinking that there
5 was some forum to hear evidence that hadn't been heard or that Congress had a
6 constitutional authority in any manner to decide it was going to overturn the results of
7 these elections.

8 Thank you.

9 Mr. [REDACTED] Of course.

10 All right. Keep going or do we need a break?

11 The Witness. I'm good.

12 BY MR. [REDACTED]

13 Q Let's talk about the parliamentarian.

14 At some point did either you or someone on the Vice President's staff reach out to
15 the Senate -- the Senate parliamentarian to get more information from her about history
16 and the precedent of the certification proceeding?

17 A We did reach out to the parliamentarian.

18 Q All right. Did you actually meet with her on January the 3rd?

19 A We met with both her and the House parliamentarian too.

20 Q Okay. Was that the day, Mr. Short, on which the Vice President was
21 swearing in new Members?

22 A Yes.

23 Q So you were on the Hill already?

24 A Yes.

25 Q Okay. Where did the meeting with -- was the meeting together with the

1 Senate and the House parliamentarians?

2 A Yes, it was.

3 Q Where did it take place?

4 A In the Vice President's ceremonial office off the Senate floor.

5 Q Okay. Tell us about the substance of the discussion in the meeting.

6 A As I recall the conversation, it was just, "What are the things that are
7 statutorily required to be said and what are the things that I have flexibility to say?"

8 Q Yeah.

9 A And that was the lion's share in one form or another of that conversation.

10 Q What did the Senate parliamentarian, Ms. MacDonough, tell you and the
11 Vice President about her view about the Vice President's authority?

12 A I don't know that we really asked the legal question. It was more the
13 technical question, what is the language? And I know that subsequent there was
14 multiple drafts shared between her and Chris and Greg and bouncing back and forth to
15 say, "Could we say it this way?"

16 But, additionally, we were informed about the alternate slates. And the
17 parliamentarian -- or I believe it was the parliamentarian -- saying, "We get these every
18 year. And there are numerous ones."

19 And so, I think that was kind of a finishing (ph) note to us.

20 Q So at this meeting there was already discussion of the Vice President altering
21 the standard script that Vice Presidents in the past had read to contemplate this, the
22 prospect of these alternate slates?

23 A I wouldn't use the terminology "altering." I feel like it was, okay, what is it
24 that's statutorily required and where do we have leeway to expand upon it?

25 Q Yes. So that, again, that was something you discussed with the

1 parliamentarians, not altering but adding to the language?

2 A Yes. And I think, candidly, it wasn't all resolved then. It was, well, let us
3 go back and do our own research. And so there were back-and-forth emails between
4 Greg and them or between Chris and them to reach a final resolution for the scripts on
5 the 6th.

6 Q I see. So much like the draft letter to Congress, was Mr. Jacob sort of
7 leading this effort inside the Vice President's Office?

8 A Both Greg and Chris.

9 Q Chris Hodgson. I see. All right.

10 Was there ever a discussion at that meeting about the prospect that the Vice
11 President would not attend the certification?

12 A I don't recall that. I know that we had done our own analysis and seen that
13 at one time in history that a Vice President had passed on that role.

14 Q Yeah.

15 A But I think when we discussed it internally, it was a -- that it's his
16 responsibility to be there. And certainly wouldn't want to follow the historical example
17 of Hubert Humphrey.

18 Q Okay. What's the historical example?

19 A He was the one who skipped.

20 Q He didn't go?

21 A Yes.

22 Q I see. Well, at some point on January 5th Senator Grassley said -- the
23 Senate President Pro Tem -- that he and not Vice President Mike Pence will preside over
24 the certification of the electoral college votes since, quote, "We don't expect him to be
25 there," which then his office walked back and clarified he meant to explain what would

1 happen if Pence had to step away during the proceeding, every indication is -- we
2 have -- is that the Vice President will be there.

3 My question is whether there was ever any discussion that you are aware of,
4 Mr. Short, with the Vice President that he would somehow not be there himself, like
5 Hubert Humphrey, to preside over the certification.

6 A Well, as I mentioned, we had that conversation internally.

7 Q Yeah.

8 A I don't remember that conversation externally. The Grassley statement
9 shocked us, didn't know where that came from. I know I called, I think, Sharon after
10 that as well to say, "Is there something that we need to know?" And our office was in
11 touch with Grassley's quickly thereafter to the point that he retracted the statement.

12 Q Yeah. So the Vice President never considered stepping away --

13 A No.

14 Q -- or not personally appearing?

15 A No. That statement came out of left field.

16 Q Got it. Okay. All right.

17 Anything in the discussion with the parliamentarians that in any way altered the
18 Vice President's approach to January 6th?

19 A Not that I recall. No.

20 Q Okay. That same day, January 3rd, the swearing in of the new Members
21 and the meeting with the parliamentarian, is the night that the news about President
22 Trump's call with Secretary Raffensperger breaks or goes public.

23 And I forget who asked you before about this, but did the Vice President have any
24 awareness before that that news broke that the President had a phone call with Secretary
25 Raffensperger and what was said?

1 A Not that I'm aware of. No.

2 Q Do you remember talking with him about it, getting any reaction, the Vice
3 President's reaction, to the phone call?

4 A No. Not that I'm aware of.

5 Q Did he express displeasure with it or did he comment about it at all when it
6 was reported?

7 A I don't recall him expressing sentiments one way or the other.

8 Q How about Mr. Meadows? Did you talk to him about the call?

9 A I did not.

10 Q Ever, not just that night but any time?

11 A No.

12 Q Did you ever have any conversation with Mr. Meadows about the
13 Raffensperger call?

14 A I did not.

15 Q Anybody else in the White House?

16 Mr. Flood. If you don't mind, [REDACTED], could you rephrase? Who with who in the
17 White House?

18 BY MR. [REDACTED]

19 Q I'm talking about whether you personally had any conversations about the
20 Trump-Raffensperger call after it was reported and the actual recording was made public?

21 A I'm sure that I commented on the press stories to the Vice President. But I
22 don't recall having a substantive conversation with the staff about the contents of that
23 conversation because we weren't included in it, we weren't consulted on it, and all my
24 knowledge of was what I read in the press.

25 Q I see. Okay.

1 A Which I usually discount significantly.

2 Q Right. The next day is January 4th, and you and the Vice President -- or the
3 Vice President and the President apparently met before traveling to Georgia for a last
4 minute event.

5 Do you remember being present for a meeting between the President and the
6 Vice President in the Oval Office on January 4th?

7 A Yes.

8 Q Okay. And this is one where I note Mr. Flood taking the same position.
9 You were present in the meeting? Don't tell me what was said. You were personally
10 present in the meeting between the President and the Vice President?

11 A Yes.

12 Q Who else was there?

13 Mr. Flood. You can answer that. Yeah. Give names that you remember.

14 The Witness. Greg Jacob, John Eastman, myself, the Vice President, and the
15 President.

16 BY MR. [REDACTED]

17 Q Okay. Anyone else come or go during the meeting?

18 A Mark Meadows departed as the meeting commenced.

19 Q I see. So he was there at the beginning and then --

20 A Like, just for an introduction and then out.

21 Q I see. Not there for substantive discussion?

22 A Correct.

23 Q Okay. And was the subject matter of the discussion the election, the
24 certification?

25 Mr. Flood. Why don't you say what you regard the subject matter as having

1 been in as few words as you can?

2 The Witness. I recall the subject matter being consistent with the memos that

3 John Eastman authored.

4 Mr. [REDACTED] Okay, which we'll get into. And I appreciate that. And I won't,
5 based on Mr. Flood's objection, without waiving anything, won't ask you any more
6 questions about the discussion in the meeting. But fair to say that Mr. Eastman -- the
7 discussion was consistent with the memos that Mr. Eastman has put forth?

8 The Witness. Yes.

9 Mr. [REDACTED] Okay.

10 Mr. [REDACTED] Actually just --

11 Mr. [REDACTED] Yeah. Go ahead.

12 Mr. [REDACTED] On that.

13 Was it your understanding that Mr. Eastman was there as an attorney
14 representing the President in his capacity as a candidate for reelection?

15 The Witness. I don't know that I'm able to speculate on that, [REDACTED]. I mean,
16 I -- he was an attorney that the President asked us to meet with. Under what auspices
17 he was there, I can't.

18 Mr. [REDACTED] But he was not a government employee.

19 The Witness. Not that I know of.

20 EXAMINATION

21 BY MR. [REDACTED]

22 Q Let me just ask you a couple of questions about Mr. Eastman. He had
23 before this gone on the Bannon podcast and discussed the role of the Vice President.

24 He specifically had said, and I believe this was on January 2nd, Mr. Bannon says,
25 "Are we to assume that this is going to be a climactic battle?" referring to January 6th.

1 Mr. Eastman said, "Well, I think a lot of that depends on the courage and the spine
2 of the individuals involved."

3 Bannon says, "When you just said the courage and spine, are you talking about on
4 the other side of football? Would you be -- would you be -- that there'd be a nice way
5 to say a guy named Mike, Vice President Mike Pence?"

6 And Eastman replies, "Yes."

7 Were you familiar with that exchange that Dr. Eastman had with Steve Bannon
8 about the climactic battle of January 6th?

9 A I'm not familiar with most content on the Bannon podcast. I read about it
10 subsequently.

11 Q At the time it was made or before this meeting on the 4th?

12 A I was not aware at the time.

13 Q I see. Okay.

14 Let's turn to the memos that you indicated were generally consistent with the
15 discussion. The first one appears in exhibit 19 in the big binder. If you could turn to
16 that.

17 So I take it this is -- it's the short version, the two-page version. Did you -- have
18 you -- did see this at the time, January 4th or otherwise?

19 A I don't recall seeing them. I recall seeing them after. But the arguments
20 that I've seen articulated here were the same arguments that were made poorly.

21 Q I see. Okay.

22 A So I'm familiar with the content. I don't -- I can't sit here and say I
23 remember receiving this. I may have. It may have come to my in-box, it may have
24 come to Greg's. I just don't recall that.

25 But the content I subsequently read, and it's, I think based upon our conversation

1 today, you know, that we're aware of the arguments that are made here.

2 Q Understood. So it starts out, "7 states have transmitted dual slates of
3 electors to the President of the Senate."

4 Again, raised in the meeting, generally discussed? Don't answer that.

5 Mr. Flood. Raised in which meeting?

6 Mr. [REDACTED] I'm sorry.

7 Mr. Flood. Yeah. I ask you not to answer that.

8 Mr. [REDACTED] Yeah. No, that's -- and I don't mean to keep pushing against that.

9 BY MR. [REDACTED]:

10 Q Paragraph 3 on the second page, he says, "At the end, he," Vice President
11 Pence, "announces that because of the ongoing disputes in the 7 States, there are no
12 electors that can be deemed validly appointed in those States. That means the total
13 number of electors -- the language of the 12th Amendment -- is 454." This reading of
14 the 12th Amendment has been advanced by Professor Tribe.

15 Which means a majority of the electors would only be 228, not enough, which
16 means Pence gavel's President Trump as reelected.

17 That argument, that they would be somehow thrown out, this dispute for electors
18 from the seven States resulting in a below threshold account and President Trump
19 winning, is that something that the Vice President heard? Considered? And did it
20 affect his position on January 6th?

21 A As we've asked today multiple times, we knew that the argument was you
22 could get the threshold beneath what it was, and did not, you know, alter the Vice
23 President's thinking as to what his constitutional role was that day.

24 Q Right. Okay.

25 Was there ever -- and, again, I don't want to keep bumping up against the

1 meeting -- but was there discussion at any point with Dr. Eastman about the Senate
2 filibustering or the Senate delaying its proceedings beyond the 2 hours to create more
3 time for States to send alternate states of electors. That's reflected in one of the
4 Eastman memos.

5 Mr. Flood. Let me try a version of that.

6 Setting aside any conversations in the Oval Office or other conversations, if there
7 were any, in which you and Mr. Eastman and the President, and the President either
8 physically or telephonically, was there anything -- did you participate with Mr. Eastman in
9 any conversation about whatever it was Mr. [REDACTED] asked, because I've lost --

10 Mr. [REDACTED] About a filibuster --

11 Mr. Flood. Filibuster. Thank you.

12 Mr. [REDACTED] -- delaying the proceedings to give States more time.

13 The Witness. As I've mentioned, I think that that argument, we were aware of
14 the notion that he could gavel out. But I don't recall it being connected to give us more
15 time to provide more evidence. I think it was interpreted more as a delay tactic.

16 And I'm sure it's not consistent with actually what the Senate rules are, because I
17 believe that even if the Vice President had attempted to do that, then Leader McConnell
18 could reclaim the chair and have a vote. And so it's not something that could even
19 happen. But I know it was one more ill-researched suggestion that was presented to us.

20 BY MR. [REDACTED]

21 Q Understood.

22 He also in this memo talks something -- I don't mean to go over this again, but that
23 pursuant to paragraph 4, "Pursuant to the 12th Amendment, no candidate has achieved
24 the necessary majority. That sends the matter to the House." So that delegations
25 would vote 26 for Trump and Biden, something that Dr. Eastman put forth that Vice

1 President Pence rejected. Fair to say?

2 A Yes.

3 Q Okay. And then concludes the two-page memo by saying, "The main thing
4 here is that Pence should do this without asking for permission -- either from a vote of
5 the joint session or from the Court. Let the other side challenge his actions in court,"
6 which could result in a claim in the Supreme Court that would be rejected as a political
7 question. Essentially the Supreme Court saying, 'We can't get involved.'"

8 Do you remember discussion of that fact, of him doing it, forcing the other side to
9 sue and the Supreme Court deferring as a political question?

10 A I wouldn't probably describe that as a fact. I am aware of that theory.

11 Q But like the other theories, not something that you or Vice President Pence
12 gave any credibility.

13 A Were not persuaded by it.

14 Q Got you. Okay.

15 The next tab is the longer version. It's the 6-page Eastman memo. And I'm not
16 going to go through this with you, because it speaks for itself.

17 But just, again, Mr. Short, do you recall seeing this at any point during or around
18 the time of the meetings before January 6th?

19 A Again, I recall receiving --

20 Mr. Flood. Actually, if you don't mind, the question was, do you remember
21 seeing this in and around before January 6th?

22 Mr. [REDACTED] Yes.

23 Mr. Flood. And you spoke over him. I want to make sure the dating is clear.

24 The Witness. I probably did, but I do not recall ever seeing that. I know I've
25 seen it since.

1 Mr. [REDACTED] Yeah.

2 The Witness. But I'm familiar again with the arguments because they were made
3 orally.

4 BY MR. [REDACTED]

5 Q I see. So whether or not you saw the memo, essentially these arguments
6 were made orally in your discussions directly with Dr. Eastman. I see. Okay. Okay.
7 Eastman describes the January 4th meeting himself in a radio program.

8 I want to ask [REDACTED], if you can, to pull up that clip from the Peter Boyles radio
9 show. Peter Boyles, I believe, is a Colorado-based. Listen to this.

10 [Video shown.]

11 Mr. [REDACTED] Okay. Again, Dr. Eastman is talking about whether or not he
12 directly told the Vice President that it was an open question as to whether he had the
13 unilateral authority to accept or reject slates. Consistent with your recollection of the
14 meeting, him directly conveying that?

15 Mr. Flood. The question is yes or no, is what he said in that excerpt from the
16 radio interview consistent with your recollection of the meeting? Is it consistent or is it
17 not, yes or no?

18 The Witness. I would take issue with some elements of the way you framed it.

19 Mr. [REDACTED] Okay. Tell us more. What do you mean? What would you
20 take issue with?

21 Mr. Flood. If you can do it without disclosing the content of the Jan. 4 meeting.
22 And if you can't, we'll sort it out later.

23 Mr. [REDACTED] Yes. Exactly.

24 The Witness. Can you share with me the date of that radio interview?

25 Mr. [REDACTED] May 5th, 2021.

1 The Witness. My best assumption is that, trying to revise history a little, he
2 perhaps was softening the stances that he had taken in our office in other conversations.

3 Mr. [REDACTED] I see. So conflating what was discussed at that meeting to what
4 was discussed at other meetings?

5 The Witness. Perhaps conflating.

6 Mr. [REDACTED] Okay. He goes on a bit more.

7 [REDACTED], do you want to play the next clip? Same program from May of 2021.

8 [Video shown.]

9 Mr. [REDACTED] Okay. Again, same question, Dr. Eastman says that you had
10 somehow falsely leaked a story that Eastman advised the Vice President to simply
11 unilaterally declare President Trump elected. What he actually said was to suggest a
12 delay in the proceedings. Is that accurate, consistent with the discussion at the Oval
13 Office meeting?

14 Mr. Flood. So there are several things there. You can answer the part about, is
15 Eastman's statement in the excerpt, yes or no, completely consistent with your
16 recollection of the meeting, yes or no?

17 The Witness. It is not completely consistent.

18 Mr. [REDACTED] Okay. And can you elaborate as to what is inconsistent?

19 Mr. Flood. And you may elaborate, if you can do so without disclosing the
20 contents of what was said in the meeting.

21 The Witness. It does not appear to me to be consistent with the memos he
22 himself authored.

1

2

BY MR. [REDACTED]

3

Q I see. He is offering several scenarios in the memos, including the Vice

4

President unilaterally rejecting electors or --

5

A That's my interpretation as well.

6

Q Okay. In his memos he's not rejecting that possibility, he's affirmatively

7

floating it, right?

8

A That's my interpretation as well.

9

Q And then the pivot is, oh, if you don't want to do that, then you could just

10

delay, send it back to the States.

11

A Yes.

12

Q Neither of which were persuasive to the Vice President?

13

A Yes.

14

Q The last clip I want to play is another Eastman statement. This is from a

15

different pod -- this is from a podcast, the Lessig and Seligman podcast.

16

[REDACTED], do you have a date on this?

17

Ms. [REDACTED] September 27th, 2021.

18

Mr. [REDACTED] Okay.

19

[Video shown.]

20

Mr. [REDACTED] That was not the same quote. I'm sorry.

21

So rather than playing it, Dr. Eastman then says in this podcast in September, "At

22

the end of the day when the Vice President asked me directly, do I -- 'Do you think I have

23

that authority?' I said, 'It's an open question, which I believe it is. I think it's the weaker

24

argument. But even if you had that authority, it would be foolish to exercise it in the

25

absence of the legislatures of those States having certified the alternate slates of

1 electors.'"

2 So in September he's indicating that it's an open question about the unilateral
3 authority to reject electors. His advice ultimately was don't do it, just kick it back to the
4 States. Is that generally consistent with advice Dr. Eastman gave the Vice President?

5 The Witness. My impression was that he could explore a lot of academic
6 arguments but was more definitive in response to the Vice President's question.

7 Mr. [REDACTED]. More definitive saying, yes, you have that authority, or, yes, it's an
8 open question you have that authority?

9 Mr. Flood. Well, let's take a step back. As you've testified, you were in a
10 meeting in the Oval Office on January 4 with Eastman and the President. I don't know
11 that we've come to this, but you also spoke with him or were present when he spoke with
12 Greg Jacob on at least one other occasion, maybe more than one other occasion. I don't
13 know.

14 And so what I'd like you to do is, if Mr. [REDACTED] would be good enough to repeat
15 the question, is try to answer the question based on conversations outside the Oval
16 Office.

17 The Witness. Okay.

18 Mr. Flood. And then we'll go from there if that's inadequate.

19 Mr. [REDACTED]. Yeah. I'm just interpreting what Dr. Eastman said months later,
20 trying to get a sense as to how that aligns with your recollection of the advice he gave in
21 real time on Jan 4th or otherwise.

22 Mr. Flood. And you can answer. Try to answer it, if you can, without disclosing
23 the content of something said in the Jan. 4 meeting.

24 The Witness. My recollection was he was more definitive than he is in those
25 radio interviews.

1 BY MR. [REDACTED]

2 Q Okay. Now, I don't have anything more on the January 4th meeting. But
3 you did have a subsequent meeting yourself with Dr. Eastman and Greg Jacob. Is that
4 right?

5 A Correct.

6 Q That was the next day, January the 5th?

7 A Yes.

8 Q Tell us, if you could, where that meeting took place and who was present.

9 A That was in my office in the Executive Office Building. I believe it was just
10 Greg, myself, and Mr. Eastman.

11 Q Okay. Did Mr. Eastman put forth arguments in that meeting much like are
12 included in writing in these memos?

13 A By that point my understanding of the purpose of the meeting was, to use
14 your terminology, pivot to the alternative argument. And I confess that I was in and out
15 of that meeting and not there for the duration of it.

16 Q All right. But by that point it had been clear, through you and the Vice
17 President himself, that he was not going to unilaterally choose one slate over another.
18 So the focus of Dr. Eastman became, well, just delay, just kick it back, just give them more
19 time.

20 A Correct.

21 Q Okay.

22 Mr. [REDACTED] Were you there at the beginning of the meeting?

23 The Witness. I believe I was, [REDACTED].

24 Mr. [REDACTED] Okay. Do you recall whether Dr. Eastman began the meeting by
25 asking you to ask the Vice President to reject electors rather than simply delay?

1 The Witness. No. I don't believe he did. At that point I think, as I'd
2 mentioned before, despite repeated efforts, it had finally come to the realization
3 elsewhere in the White House that he was not going to unilaterally reject electors. So at
4 this point the purpose of the conversation shifted.

5 BY MR. [REDACTED]

6 Q Do you know whether or not there were followup calls between Mr. Jacob
7 and Mr. Eastman after the meeting?

8 A There were.

9 Q And did you get any report of or readout of those?

10 A Greg gave me updates, but I don't recall them being anything consequential
11 that would -- again, at that point, you're quickly approaching January 6th and I did not
12 recall anything that was going to shift the Vice President's viewpoint.

13 Q Yeah. Okay.

14 Now, Mr. Jacob ended up writing a draft, but not submitting an op-ed that sort
15 of --

16 A Yes.

17 Q -- reflects a little bit of his conversations with Dr. Eastman. Do you
18 remember that?

19 A I do.

20 Q All right. It's in your binder at tab 21. I'm not going to ask to read the
21 whole thing, but I just want to call your attention to the very top of the second page
22 where, again, this is in a draft that Mr. Jacob wrote.

23 "But one of the President's key outside lawyers agreed with me the day before the
24 events at the Capitol that not a single member of the Supreme Court would support his
25 position.

1 "He acknowledged that 230 years of historical practice were firmly against it, and
2 that no reasonable person would create a rule that invested a single individual with
3 unilateral authority to determine the validity of disputed electoral votes for President of
4 the United States."

5 That statement that Mr. Jacob makes consistent with your recollection of the
6 discussion with Dr. Eastman, that this notion of unilateral authority would never -- it's not
7 supported by precedent, would never be accepted by the Supreme Court?

8 A Correct.

9 Mr. [REDACTED] Okay. I don't have anything else about Eastman. Is there any
10 other -- let me stop and ask Ms. Cheney or others about questions about the Eastman
11 memos or the Eastman interactions.

12 Ms. Cheney. Thanks, [REDACTED].

13 I just wanted to just ask you to clarify, if you can, Mr. Short, did Mr. Eastman
14 advise the Vice President that he should not reject electors?

15 Mr. Flood. And, Marc, you may answer that if there was such advice outside
16 of -- well, you may answer that if Mr. Eastman communicated directly with the Vice
17 President outside of the Oval Office. If he didn't, you must respectfully decline to
18 answer the question at this point.

19 The Witness. Okay. Eastman would not have had any conversation with the
20 Vice President outside of the Oval.

21 Ms. Cheney. So when Mr. Eastman says that he advised the Vice President not
22 to reject electors, do you have any recollection of any advice of that kind?

23 Mr. Flood. Again, if you -- if you -- I instruct you not to respond to the question
24 unless you have a recollection of such advice that occurred outside the Oval Office.

25 The Witness. The only advice was inside the Oval Office.

1 Ms. Cheney. So you're not aware of any time when Mr. Eastman advised the
2 Vice President not to reject electors.

3 Mr. Flood. Yeah, I think I have to instruct you not to respond to that, because I
4 think given prior testimony, the only awareness you could have, and correct me if I'm
5 wrong, Marc, would derive from something you heard in an Oval Office meeting.

6 The Witness. As far as advice that he directly gave to the Vice President, yes.

7 Ms. Cheney. Did Mr. --

8 The Witness. I think it is fair -- perhaps I think it's fair for me to tell you that his
9 advice to us I interpreted as taking both sides of that coin at different times.

10 Ms. Cheney. Could you explain that a little bit?

11 The Witness. Sure. I think his advice to -- when we had separate
12 conversations, that sometimes it initiated as rejecting, that sometimes it was an
13 acknowledgement that that would not play out favorably, and so maybe that isn't the
14 best course of action, and maybe -- maybe a better course is to ask these States to delay.

15 I think that that's -- but I -- I certainly interpreted his advice as not entirely
16 consistent and probably giving us guidance in both directions.

17 Ms. Cheney. Okay. Thank you. I appreciate it.

18 Mr. [REDACTED] Mr. Raskin?

19 Mr. Raskin. Thank you.

20 Who arranged that meeting with Mr. Eastman? And in what capacity did you
21 understand he was appearing?

22 The Witness. The meeting occurred on the 4th of January, late afternoon. That
23 day the Vice President had a rally in Georgia, because the election was the next day.
24 And we'd actually moved our events up earlier in the day because the President had later
25 announced he was going to do a rally that night.

1 So we'd gone down early in the day. We were flying back to D.C. when I got a
2 call on Air Force Two from Mark Meadows requesting that we come to the Oval for a
3 meeting with John Eastman and several others.

4 And I raised objection to a cast of characters who were going to be in that
5 conversation. Mark concurred, said he would take care of it and limit the audience.

6 And so when we came back, we had the meeting in the Oval. And it adjourned
7 because the President was getting late for his own rally that night down in Georgia. So
8 it was late afternoon, early evening as far as the timing.

9 But I guess the best answer I could give you, sir, is that my contact with Mark
10 Meadows asking us to come back to the White House for a meeting.

11 Mr. Raskin. Got you. And who was in the original cast of characters that you
12 had objected to?

13 The Witness. Rudy Giuliani. I believe Boris Epshteyn. I don't know for sure,
14 but I believe Jenna Ellis. So I believe there were others on the initial invitation list.

15 Mr. Raskin. I want to ask you about this delay route where the fallback position
16 was, well, just delay the whole process by returning these electoral college slates to the
17 legislatures to make the judgment about which were the bona fide slate.

18 What was the basis of the Vice President's rejection of that proposal?

19 The Witness. I believe the basis was him reading the statute that very clearly
20 says his role is to open and count.

21 Mr. Raskin. Got it.

22 The Witness. And there is not additional leeway given there, no matter how
23 novel or creative or it sounds good. That that's his role.

24 Mr. Raskin. So there was no provision for doing what they were asking for.
25 There was no delay provision or return it to the State legislature provision?

1 The Witness. Not in any statute that we read.

2 Mr. Raskin. And not in the Constitution. In fact, the Constitution says that the
3 President of the Senate, who is the Vice President of course, shall open all the certificates
4 and the votes shall be counted. The person having the greatest number of votes for
5 President shall be the President, if such number be a majority of the whole number of
6 electors appointed. And if no person has such majority, then from the persons having
7 the highest numbers not exceeding three, the House of Representatives shall choose
8 immediately, by ballot, the President.

9 Now, I don't know if that figured into your calculus, but at least by my
10 understanding, the act of returning electors to the legislature would have immediately
11 triggered a contingent election. Was that part of your calculus?

12 The Witness. I think that our general counsel is much more able to answer that.

13 But, Congressman, yes, in short answer, yes, we were cognizant that there's not a
14 leeway for more time and that the statute is pretty clear about the date selected for this
15 to be resolved, period.

16 Mr. Raskin. Thank you very much. I yield back.

17 Mr. [REDACTED] Any other questions?

18 BY MR. [REDACTED]

19 Q You mentioned, Mr. Short, the trip to Georgia. That was earlier in the day,
20 before the meeting in the Oval Office?

21 A Correct.

22 Q Was that a rally in Milner, Georgia, essentially --

23 A It was in Georgia. I don't recall what town.

24 Q Okay. And this was the day, I believe, before the Georgia special Senate
25 election, Correct?

1 A Correct.

2 Q Okay. And it's reported in "Peril" again that on the flight home that the
3 Vice President was working on this letter, was going over drafts or discussing the letter
4 that you've testified about, the letter to Congress. Do you remember that?

5 A It was a working product for a couple days. So I do not recall specifically
6 working on it on that flight. But it certainly is plausible.

7 Q Okay. But, again, it seems like even before the meeting with Professor
8 Eastman, the Vice President's made up his mind, he's taking -- done his research. He's
9 writing a letter effectively memorializing his approach to January 6th.

10 A He had made up his mind before the letter to the extent that --

11 Q Yeah.

12 A -- that he was consistent in his answer.

13 Q All right. Now, the President also holds a rally in Georgia on January 4th,
14 but later that night, right?

15 A Yes.

16 Q And at that rally he says, quote, "I hope Mike Pence comes through for us, I
17 have to tell you. I hope that our great Vice President, our great Vice President comes
18 through for us. He's a great guy. Of course if he doesn't come through, I won't like
19 him as much."

20 Do you remember hearing, seeing reports of those statements about the Vice
21 President by President Trump at that rally?

22 A Sure. We got reports. I wasn't watching it live.

23 Q What was your reaction when you heard that?

24 A I can't say surprise.

25 Q How about Vice President Pence, did you discuss that with him? Did he

1 have a reaction?

2 A I think that there was -- we sort of chuckled about it, but I'm not sure that
3 there was much more.

4 Q Okay. Now, we've talked about the tweets that were issued even early in
5 the morning on the 6th consistent with him continuing to beat the drum that the Vice
6 President has some authority to come through for him.

7 A Uh-huh.

8 Q The next day is January 5th, and we've talked about the followup discussion
9 that you had with Mr. -- Dr. Eastman and Mr. Jacob.

10 That was also the day, I believe, there was a call with the Vice -- with former Vice
11 President Quayle. Do you remember? Were you involved in that discussion?

12 A I was not involved in that. And I wouldn't -- I wouldn't know if that was the
13 day or not.

14 Q Okay. Well, tell us what you remember about how that was arranged, who
15 reached out to whom, and what, to the extent you know, was the discussion between --

16 A I don't -- I don't know much. It was, again, as I mentioned to you before,
17 there were a couple of people who called in to say, "Look, I'm reading the press accounts.
18 I just want you to know this is my review." I thought that former Vice President Quayle
19 was one of those. I know he has said in press reports that Pence called him. I,
20 candidly, don't know.

21 Q Okay. You weren't involved in --

22 A I was not.

23 Q I see.

24 In the Woodward book it's reported that Quayle said, "Mike, you have no
25 flexibility on this, none, zero, forget it, put it away."

1 Vice President Pence said, "You don't know the position I'm in."

2 And Quayle said, "I do know the position you're in. I also know what the law is.
3 You listen to the parliamentarian. That's all you do. You have no power."

4 Is that consistent with your readout, your understanding of the conversation
5 between the two Vice Presidents?

6 A As I had mentioned before, I question the reliance upon Bob Woodward
7 reporting. I've noticed there's been a more recent Washington Post story in which Dan
8 Quayle said that Pence was consistent in his beliefs and was just affirming them with him,
9 with Quayle. And that is more consistent with my recollection of the conversation than
10 the more dramatic view in Bob Woodward's book.

11 Q Yeah. To be clear, in your view, the Vice President is not calling looking for
12 advice. By this point he's already made up his mind?

13 A Correct.

14 Q And Vice President Quayle doesn't say anything that changes that view.

15 A Correct.

16 Q All right. That morning, January 5th, is also when Judge Luttig gets
17 involved. Can you tell us about how that was initiated? Why is it that Judge Luttig was
18 somehow now going to take a public position on the Vice President's power?

19 A As I mentioned in earlier testimony, what I had read in his bio, that Eastman
20 had clerked for Luttig. I had been talking to Vice President Pence's counsel, Richard
21 Cullen, and he was close to Judge Luttig and he said he would put me in touch.

22 So I was always wanting to get to know him, because he has an impeccable
23 academic pedigree as a Washington and Lee alumnus and UVA graduate school.

24 Q Yeah.

25 A And so I --

1 Q I get that. That's respect.

2 A I appreciate that. So does [REDACTED] over here.

3 Ms. [REDACTED]. Second.

4 Mr. [REDACTED] UVA.

5 The Witness. So I was -- I had admired him from afar for a long time as a
6 conservative who some had hoped he'd be on the Court instead of others that were
7 picked. And so I was a fan and wanted to talk to him. Richard put us together. As I
8 shared in earlier testimony, he gave me his impression of John Eastman.

9 BY MR. [REDACTED]:

10 Q Okay. So you called Judge Luttig or you two talked directly?

11 A Yeah. Yeah.

12 Q I see. So Richard wasn't the sole intermediary? You actually had direct --

13 A No. I had the conversation with Judge Luttig.

14 Q Okay.

15 A And that was the extent of our conversation, was really about helping me
16 better understand John Eastman.

17 Q I see. So your discussion with Judge Luttig was strictly, "Tell me about
18 Eastman. Give me your impression."

19 A I have no reason to doubt that Judge Luttig had other conversations with
20 Richard.

21 Q Okay. But with you --

22 A With me, it was about -- about John Eastman.

23 Q Got it.

24 A And after the 6th, I know the Vice President then had a conversation with
25 Judge Luttig just to thank him for his public support. But the Vice President did not

1 speak with the judge until after January 6th.

2 Q I see. Did you, in your conversation with Judge Luttig, raise the idea of him
3 saying something publicly to reinforce the Vice President's decision?

4 A No. I never asked him to make any sort of public statement, as I recall.

5 Q Okay. Do you know whether or not Richard Cullen did?

6 A It's plausible that Richard did. I do not know.

7 Q All right. So --

8 A I think it's very -- it may in fact be the case that Richard said it'd be helpful.
9 But I don't recall asking Judge Luttig for that.

10 Q Okay. Do you remember when your conversation took place --

11 A I do not.

12 Q -- with Judge Luttig? Was it in the morning of January 5th?

13 A It likely was. There wouldn't have been time on the 4th, I imagine. But it
14 wouldn't have been before, you know, John Eastman was in the conversation.

15 Q Got it. So tab 22 in the large binder is Judge Luttig's tweet thread, which
16 occurs -- which actually is posted at 9:53 a.m. on January 5th.

17 And he goes through, and I won't read it again, but the headline, "The only
18 responsibility and power of the Vice President under the Constitution is to faithfully count
19 the electoral college votes as they have been cast." He then goes through a bit of an
20 abbreviated but cogent legal analysis as to why that is.

21 Were you aware when this came out at 9:53 that it was coming? Had you been
22 informed that Judge Luttig was going to take a public position?

23 A I was not aware, as best I can recall, no.

24 Q Okay. And then what effect, if any, did it have when it was --

25 A Well, I mean, obviously, we quoted from it in the public letter the next day.

1 Q Yeah.

2 A So we were grateful for his statement. But not something that I recall
3 asking for, again. It's certainly plausible Richard did.

4 Q Yeah. And to be clear, Judge Luttig was not solicited to convince the Vice
5 President to do this. The Vice President had already decided to do this. Judge Luttig is
6 just reinforcing it.

7 A As I mentioned, I don't believe they even spoke until after January 6th.

8 Q I see. Judge Luttig just more recently, in September of 2021, again
9 tweeted. And that's the next tab, 23.

10 And he says, "I was honored to advise Vice President Pence that he had no choice
11 on January 6th, 2021, but to accept and count the electoral college votes as they had
12 been cast and properly certified by the States. I believe that Professor Eastman was
13 incorrect at every turn of the analysis in his January 2nd memorandum, beginning with his
14 claim that there were legitimate competing slates of electors presented from seven
15 States."

16 So months later, Judge Luttig again reinforces that Eastman was wrong and that
17 Vice President Pence had no choice. Do you know whether -- how this came about, this
18 September tweet from Judge Luttig?

19 A I do not. And, you know, when he says, "I was honored to advise Vice
20 President Pence," I'm assuming that he means that in a broad sense of perhaps the advice
21 he gave Richard Cullen.

22 Q Understood, because he didn't, in your view, directly communicate with Vice
23 President Pence --

24 A Correct.

25 Q -- until after the election.

1 A Correct.

2 Q Tell me about that. There's a post-January 6th --

3 A I don't think I was on the call. I think he just called a few people to thank
4 them. Amongst them, he called several Capitol Hill Police. He called and thanked the
5 chaplain. He called and thanked and wrote letters to the folks who had collected the
6 electors and had taken them out of the Capitol when it was attacked.

7 So he was conscious to make sure that he thanked several people involved in
8 those activities, and one of those was Judge Luttig.

9 Q "He" being Vice President Pence?

10 A The Vice President.

11 Q Did all of this after January 6th?

12 A Yes.

13 Mr. Flood. Can I ask a clarifying question?

14 Mr. [REDACTED] Sure.

15 Mr. Flood. I want you to distinguish after the election --

16 The [REDACTED] Oh, sorry.

17 Mr. Flood. -- and after January 6th.

18 The Witness. Sorry. I meant after January 6th. Yes. I apologize.

19 Mr. Flood. Okay.

20 BY MR. [REDACTED]

21 Q So Vice President Pence reached out to Judge Luttig after January 6th to
22 essentially thank him for his public support.

23 A Along with many others who served heroically that day in the Capitol.

24 Q All right. Okay. That very same day, January 5th, the President is
25 tweeting in a very different way. Tab 25.

1 The President tweets, and this is at 11:06, just a little over an hour after Judge
2 Luttig, "The Vice President has the power to reject fraudulently chosen electors,"
3 essentially parroting what Dr. Eastman had said, that Vice President Pence had made
4 clear he disagrees with. The President is still publicly making this statement.

5 Did this cause any discussion with you with Vice President Pence?

6 A No. I think he was making those statements throughout, up and including
7 to January 6th. I don't think that would raise any special attention.

8 Q All right.

9 Mr. [REDACTED] May I ask a question?

10 Mr. [REDACTED] Please.

11 Mr. [REDACTED] So you referred earlier to a pivot from the argument that the Vice
12 President could reject electors to the argument that the Vice President could delay
13 certification and send it back to the States.

14 But this tweet, exhibit 25, was January 5th, so the day after your meeting with Dr.
15 Eastman and the President and the Vice President and Greg Jacob.

16 So is it your understanding that even after that meeting, the next morning, the
17 President's view was still that the Vice President should reject electors rather than simply
18 delay it and send it back to the States?

19 The Witness. I don't know. That would be my interpretation. Yes. Our
20 meeting with John Eastman was later in the afternoon on the 5th, when the pivot became
21 more clear.

22 Mr. [REDACTED] So the pivot was clear to you when you met with Eastman later on
23 the 5th, as opposed to the pivot became clear during the meeting with the President?

24 The Witness. Correct.

25 Mr. [REDACTED] There is actually a midday lunch scheduled for January 5th between

1 the Vice President and the President. And according again to some of this reporting,
2 when you accompany the Vice President to the lunch, Mr. Meadows essentially prevents
3 you from attending, and it becomes a one-on-one meeting between the President and
4 the Vice President. Is that accurate?

5 The Witness. I don't think that's accurate. My recollection was that the lunch
6 had been canceled earlier. And subsequently, though, the President asked the Vice
7 President to come down to his office. So I think their meeting was roughly like 11 to 1
8 or something, but it was not a luncheon.

9 Mr. [REDACTED] Okay. And did you get any report from the Vice President as to
10 the contents of that meeting with the President?

11 Mr. Flood. You can answer that yes or no.

12 The Witness. Yes.

13 Mr. [REDACTED] Okay. According to "Betrayal," Mr. -- the Vice President said that
14 he spent the meeting explaining to Trump his role in the certification process was purely
15 ceremonial and he had no power to decertify the results.

16 Is that consistent with your understanding of what occurred in the meeting?

17 Mr. Flood. That's also a yes or no, if you can answer it yes or no.

18 The Witness. I don't think I can answer that yes or no.

19 Mr. [REDACTED] Okay. As reported in "Betrayal," that the exchange is, Trump:
20 "If these people say you have the power, wouldn't you want to?"

21 The Vice President says, "I wouldn't want any one person to have that authority."

22 The President says, "But wouldn't it be almost cool to have that power?"

23 The Vice President's reported to have said, "No. I've done everything I could and
24 then some to find a way around this. It's simply not possible."

25 To which the President says, "No, no, no, you don't understand, Mike. You can

1 do this. I don't want to be your friend anymore if you don't do this."

2 Do you have any recollection about whether that exchange occurred or is
3 consistent with the tone and discussion between the President and the Vice President?

4 Mr. Flood. You can answer as to whether what you just heard is consistent with
5 an understanding you may have. But you can't go any farther. And that's also yes, no,
6 or I can't answer. But you may not go any farther than that.

7 The Witness. It's consistent with an understanding that I would have. In other
8 conversations with the Vice President he articulated to me that, no, he wouldn't want
9 that power bestowed upon any one person.

10 BY MR. [REDACTED]

11 Q I see. Separate from this conversation, Vice President Pence had told you --

12 A That seems rather sensational, but the Vice President has shared with me
13 before the notion that, no, he wouldn't want any one person to have that power.

14 Q Understood.

15 How was Vice President Pence's demeanor upon completion of that meeting with
16 the President? Did you see him after it took place?

17 A Yes.

18 Q Tell me he about his demeanor. I don't want you to recount specifics of the
19 conversation, consistent with what Mr. Flood has consistently maintained. But what
20 was his demeanor?

21 A Steady. I think that there's a lot of focus on obviously these last 24 hours.

22 Q Yeah.

23 A But in our mind this has been a multiweek campaign. So none of this at
24 this point, it may become more intense, but it is not new.

25 Q Yeah.

1 A So I think that through our various conversations, internal deliberations,
2 there is a path that we're on and not deviating from.

3 Q Okay. Do you have any reason to believe the Vice President did anything
4 but convey his consistently held position to President Trump about what he could or
5 couldn't do on January 6th?

6 A No reason to believe otherwise.

7 Q Okay. It's been reported to us that the Vice President was, quote, "grim
8 and determined" following that meeting. Is that consistent with your recollection or
9 your observation of his demeanor?

10 A I wouldn't usually describe him as grim. I think he's a pretty cheerful
11 person. So determined, sure.

12 Q Okay. It sounds like it didn't really change anything, didn't change his
13 demeanor, didn't change his subsequent position, that meeting with the President in the
14 Oval Office.

15 A Correct.

16 Q Okay.

17 Mr. Flood. [REDACTED], If there's a good breaking point, I don't know when your line of
18 questioning ends, but we could use a break.

19 Mr. [REDACTED] Yeah. Let's break now, because I'm relatively close. I think we
20 can finish in the next -- certainly within the next hour or even less.

21 Why don't we take 5 minutes? We'll break.

22 Mr. Flood. Great. Thank you.

23 [Recess.]

1 [5:01 p.m.]

2 Mr. [REDACTED] Back on, Mr. Short.

3 BY MR. [REDACTED]

4 Q Mr. Short, I just have a couple more things about January 5th in particular to
5 ask you about, and I want you to turn to exhibit 26 in your big binder. This is another
6 email that came to you on January 5th, at 1:52 p.m., from Jason Miller. First of all, who
7 is Jason Miller?

8 A Jason was a chief spokesman for the campaign in 2016 and continued to be
9 an adviser on press issues.

10 Q Okay. Someone with whom you had worked on campaign and political
11 issues over the course of the campaign?

12 A Yes.

13 Q Okay. He sends you this email forwarding a message from Boris Epshteyn
14 also from January 5th, and it is essentially per Mayor Giuliani. If you look at the second
15 page: Attached please find following info. The first is the bullet point overview of the
16 numbers of interest. The second is a substantive analysis. The third is Peter Navarro's
17 first report. He has a new report coming out shortly, which should be sent as soon as
18 available as an addendum to this group of documents.

19 Do you recall, Mr. Short, receiving this forwarded message from Mr. Miller and
20 the attached documents that all follow in the binder?

21 A I don't recall receiving them, but it's not surprising.

22 Q Okay. So, as late as the day before January 6th, is it fair to say you were
23 continually being presented with things from the Giuliani, the legal team, about specific
24 information on election fraud?

25 A Yes.

1 Q Was this reviewed, considered, conveyed to the Vice President in any way?

2 A I'm sure that I would have shared it with Greg, but I doubt I would have
3 shared it with the Vice President.

4 Q Why not?

5 A Typically, if I -- if memos from Peter Navarro made it to the Vice President,
6 then I wasn't doing my job effectively as chief of staff.

7 Q Why is that? Tell me more about your impression of Navarro in those
8 memos.

9 A Peter is a lifelong Democrat who ran for Congress as a Democrat and fancies
10 himself as a quasi-economist, but I don't believe he has constitutional scholar knowledge.

11 Q So things that he purported to put forth about the election, in your view,
12 didn't have credibility?

13 A Correct.

14 Q Okay. Did you convey that opinion to the Vice President?

15 A I think he knew my opinion.

16 Q Did he share that view?

17 A The Vice President was far more collegial.

18 Q But at bottom, did he share your perspective about the lack of credibility of
19 Mr. Navarro's election-related findings?

20 A I think he had confidence in my decisions on what got to his desk and what
21 didn't.

22 Q Okay. So this didn't make it to his desk, it sounds like, not that you recall?

23 A Not that I recall.

24 Q Okay. There's also been, again, reporting that, after the meeting,
25 face-to-face meeting between the President and the Vice President, there's a phone call

1 later that night that takes place following a coronavirus task force meeting.

2 Do you remember --

3 A On --

4 Q January 5th, the evening of January 5th. And, actually, it's reported to have
5 taken place in your office, that the Vice President took the call in your office and placed
6 the call on a speaker phone and you actually witnessed the conversation. Do you
7 remember that?

8 A No. I think -- I think the timing would be mistaken.

9 Q Okay.

10 A Because it's my recollection on the evening of the 5th, the Vice President
11 had an event at the Vice President's residence.

12 Q Okay.

13 A So I do believe there was a call that came in earlier that afternoon --

14 Q I see.

15 A -- that was the precursor to how our, meaning my and Greg's meeting with
16 John Eastman.

17 Q So the sequence is the lunchtime-ish meeting between the President and the
18 Vice President, the subsequent phone call that takes place in your office, and then you
19 have your meeting with Professor Eastman?

20 A That is my recollection.

21 Q Tell us about that middle conversation, the speakerphone conversation. Is
22 that accurate, that the President and Vice President had a call that you listened to on a
23 speaker phone in your office?

24 A It's accurate that a call from the President to the Vice President was
25 connected in my office.

1 Q Okay. And you're there and can hear both sides --

2 A Yes.

3 Q -- of the conversation. All right.

4 And it's reported again in Peril that Trump was furious during the meeting, at one
5 point telling Pence he didn't want to be his friend anymore. If he certified the election,
6 he was weak and his career was over.

7 Is that generally consistent with your recollection of the phone call?

8 A No.

9 Q How is it different from your recollection of the phone call?

10 Mr. Flood. If you can answer without disclosing your recollection of the phone
11 call.

12 The Witness. None of that was part of the phone call.

13 BY MR. [REDACTED]

14 Q Was the phone call heated or angry on either side?

15 A No.

16 Q Were both the President and the Vice President calm during the
17 conversation?

18 A Yes.

19 Q Okay. The subject matter of it, again, without disclosing the words used,
20 was it about the Vice President's power on January 6th, that subject?

21 Mr. Flood. -- in your own words, and be as succinct as you can, and if you
22 remember, state the subject matter of the call.

23 The Witness. To request that we meet with John Eastman.

24 Mr. [REDACTED] I see. Okay. So this is the President saying, would you meet
25 with John Eastman?

1 Mr. Flood. Don't answer that.

2 BY MR. [REDACTED]

3 Q Okay. But, at this point, to talk about what had already occurred, on
4 repeated instances, the Vice President as early as that afternoon had conveyed to the
5 President his position on January 6th, right? There was no open question or waffling or
6 dispute about his intention?

7 A Correct. But, as we've covered, in that afternoon conversation, I think in
8 response to [REDACTED]'s question, is when it was my impression that the so-called pivot
9 happened and a new approach was taken.

10 Q I see. And that's why the President in his conversation, again, not quoting
11 it, leads to the subsequent conversation with Professor Eastman, which is more about the
12 pivot?

13 A Yes, sir.

14 Q I see. Okay. That's helpful.

15 All right. Late that night, on January 5th, 9:58, exhibit 27, the President issues a
16 statement. This comes out, again, 9:58 p.m.: The New York Times report regarding
17 comments Vice President Pence supposedly made to me today is fake news. He never
18 said that. The Vice President and I are in total agreement that the Vice President has
19 the power to act. The November 3rd election was corrupt in contested States, and in
20 particular it was not in accordance with the Constitution in that they made large scale
21 changes to election rules and regulations as dictated by local judges and politicians, not
22 by State legislators. This means that it was illegal. Our Vice President has several
23 options under the U.S. Constitution. He can decertify the results or send them back to
24 the States for change and certification. He can also decertify the illegal and corrupt
25 results and send them to the House of Representatives for the one vote for one State

1 tabulation.

2 So, when this statement comes out 9:58 p.m. via tweet from the President, tell us
3 what -- did you see it and what discussion did it prompt with the Vice President?

4 A None of us saw the statement before it went out.

5 Q Before it went out, okay. What about after it was issued?

6 A Well, sure, I mean pretty quickly.

7 Q And tell us about your conversation with the Vice President when this
8 statement was posted at 9:58 p.m.

9 A The Vice President was obviously irritated that a statement putting words in
10 his mouth was put out without his consultation, and we had conversations about sending
11 out a separate statement.

12 Q Tell us about that.

13 A There wasn't much to tell you, honestly. I mean, I think that the discussion
14 was this is late at night. This will be resolved tomorrow morning, and -- and we knew
15 we had a public letter that was going to go out in the morning. So the benefit of
16 responding to that seemed not really worthwhile.

17 Q Did you call anyone to express displeasure, yours or the Vice President's,
18 with the fact that the statement had gone out without prior consultation?

19 A Yes.

20 Q Who did you call?

21 A Jason.

22 Q Why?

23 A Because Jason was known to be the one the President would lean on for
24 communications advice.

25 Q And Jason was still associated with the campaign, such as it was, at this

1 point?

2 A Such as it was. But I just think it's more that Jason was somebody the
3 President trusted and I think had served him well in a communications role.

4 Q Tell me about the conversation you had with Jason.

5 A It was brief. I was irritated and expressed displeasure that a statement
6 could have gone out that misrepresented the Vice President's viewpoint without
7 consultation.

8 Q Was there any discussion of a retraction or the President himself clarifying?

9 A No, no.

10 Q Okay. Did you tell him that the Vice President was upset?

11 A I don't recall.

12 Q Did you call Mr. Meadows?

13 A I did not.

14 Q Did you call anyone else besides Jason Miller about this statement?

15 A Only Jason.

16 Q Okay. The statement says: The Vice President and I are in total
17 agreement that the Vice President has the power to act.

18 Is that incorrect?

19 A I think the record shows that that's incorrect. I mean, we've been through
20 many documents that clarify that this is not where the Vice President was.

21 Q Right. So, essentially, the President is sending out a baldly false statement
22 about being in alignment, purported alignment with the Vice President, despite all of the
23 predicate that you indicated had gone before about their respective positions. Is that
24 effectively what happened?

25 A I interpret this statement as false. I'll let you figure out who sent it out.

1 Q Okay. Did Mr. Miller give you any indication as to what motivated it, who
2 wrote it, why it was sent?

3 A He did not.

4 Q And this was issued at 9:58. Anything else happen after this, anything else
5 that night before -- we already talked about the morning. We started earlier this
6 morning on that. But the last -- essentially the -- before you go to bed, the last thing
7 that happened relevant to these events on January 5th?

8 A I don't recall much else that occurred that night.

9 Mr. [REDACTED] Okay. All right. Let me stop there. I don't have any more
10 questions about the lead-up to January 6th. Let me turn to Mr. Raskin or Mr. Schiff or
11 Ms. Cheney or anyone else, any other members of the committee who might be present.
12 Any followup questions on what we've just been discussing?

13 Ms. Cheney. No. Thank you, [REDACTED].

14 Mr. [REDACTED] Okay.

15 Mr. Schiff. Nothing from me. Thank you.

16 Mr. [REDACTED] All right. Thanks, Mr. Schiff.

17 BY MR. [REDACTED]

18 Q Okay. Then let me just finish with a couple of questions about after the
19 fact, after January 6th.

20 On the morning of January 7th, it sounds like both the Speaker of the House and
21 the Senate majority leader attempted to call the Vice President to talk about the 25th
22 Amendment. Do you remember that discussion?

23 A I remember them calling.

24 Q What happened when they tried to reach the Vice President that morning?

25 A They were trying to reach him through the White House switchboard. At

1 some point, I was alerted to that and was asked about patching it through.

2 Q Okay. Did you patch it through, facilitate a conversation between the
3 congressional leadership and the Vice President?

4 A I did not.

5 Q And why not?

6 A There had been no request for a conversation. There had been no courtesy
7 to say "this is the topic of our call," and, at that point, I -- while they were on hold, I called
8 Leader Schumer's chief of staff.

9 Q Who's that?

10 A Mike Lynch.

11 Q Okay.

12 A In my previous role as White House Director of Legislative Affairs, I think we
13 had at least a cordial working relationship. And so I asked Mike what the purpose of the
14 call was, and he said to request that the Vice President invoke the 25th Amendment.

15 And, at that point, it was certainly my impression this was more of a press gambit.
16 Speaker Pelosi had organized her own commission that I think some of your committee
17 members have been a part of. They clearly understood that it would require weeks to
18 invoke a 25th Amendment. We had roughly 10 days left in the administration.

19 And I felt that if the call had been patched through, it would have been used
20 purely for political purposes, that they would have said, "We've called the Vice President
21 and asked him to invoke the 25th Amendment," and that was not the time to be playing
22 political games, and within a few minutes of their call be disconnected. They both had a
23 press conference and did exactly that.

24 Q Indicated that they had tried to reach the Vice President to talk about the
25 25th Amendment?

1 A Yes, yes.

2 Q All right. So there was no call between the Vice President, Speaker Pelosi,
3 and Senator Schumer?

4 A That is correct.

5 Q All right. You had a conversation with Michael Lynch. Were there any
6 other discussions that you personally had with -- we'll start with congressional leadership
7 about the 25th Amendment?

8 A No. Not that I recall, no.

9 Q Did their call, even though it wasn't connected, prompt any internal
10 discussion about the subject matter, the merits of a potential invocation of the 25th
11 Amendment?

12 A I think, again, in order to do due diligence, Greg researched the issue so we
13 knew -- we knew what triggers would happen and what a process would be. But that
14 was more for information gathering than it was believing that that was a proper recourse.

15 Q Did Greg do that research on the morning of January 7th, or had he done it
16 sometime previously?

17 A I think you'll have to ask Greg that question, but I believe Greg somewhere in
18 his past had done legal research on that topic. So it was something that he was
19 well-versed in.

20 Q Okay. Let's talk about internal discussions between you and Greg and
21 anyone else, the Vice President included, about the merits of the potential invocation of
22 the 25th Amendment. Tell us about that internal discussion. Who talked about what?

23 A I think that the merits, as we understood it, would have had somebody who
24 was mentally incapacitated in that position that would have required the Vice President
25 to do that. That was not our determination in any form or fashion.

1 And, further, as I said, the mechanisms to invoke that require or afford the
2 President an opportunity to appeal to Congress and give him weeks of that process to
3 play out. We had 10 days left in the administration. It was a political game. It wasn't
4 being real.

5 Q Let's separate the procedural process for invoking the 25th Amendment
6 from the predicate for doing so. Were there discussions with you and the Vice President
7 about President Trump's mental facility?

8 A There were no -- no questions that he was mentally fit. We did not have
9 questions about the merits of invoking the 25th Amendment.

10 Q Did anyone on your staff have such concerns about the President's --

11 A Nobody expressed those concerns to me.

12 Q All right. How about anyone on the outside, other Cabinet officials, for
13 example, raise those issues?

14 A I don't recall Cabinet officials raising those issues.

15 Q The issues of the President's mental fitness --

16 A Correct.

17 Q -- or the 25th Amendment?

18 A Correct.

19 Q Okay. So it sounds like you didn't believe that the President was
20 sufficiently mentally incapacitated to trigger the process. Is that --

21 A Correct.

22 Q And that was the universal view of the Office of the Vice President?

23 A Yes, it was.

24 Q And then the process you said would have taken some time, and there
25 wasn't sufficient time to go through that?

1 A Correct.

2 Q And that was also something that was discussed on January 7th?

3 A I don't recall which day it was discussed, but, as I mentioned, Greg was
4 somebody who had studied this in a previous position, and so he was well-versed.

5 Q Did you personally discuss with several Cabinet members on January 7th the
6 25th Amendment?

7 A I did not.

8 Q Did you have calls with Cabinet members about their particular responses to
9 the January 6th events?

10 A A couple Cabinet members called to express their concern for the Vice
11 President, wanted to know that he was well; expressed concern about the way the White
12 House was functioning; expressed -- some, as you know, submitted resignations because
13 of those concerns. I don't recall any recommending that the 25th Amendment was a
14 proper resolution.

15 Q I see. Who specifically in the Cabinet did you speak with, Mr. Short,
16 yourself about this issue, concerns about the functioning --

17 A About which issue?

18 Q About any of that. About post January 6th discussions about -- that
19 touched upon those events.

20 A Secretary Scalia, Secretary Pompeo. I believe that there were a couple of
21 others who called the Vice President directly, but those are the conversations I recall,
22 with those two.

23 Q Let's talk about them each then. What about Secretary Scalia? Tell me
24 about your conversation with him.

25 A I think the Secretary was concerned about the way that the events of the 6th

1 occurred, and he was concerned about the way the White House was functioning.

2 And --

3 Q What were those concerns?

4 A He felt that the Cabinet had not been consulted on several important
5 decisions. And so he was of the mindset that there should be a request from the
6 Cabinet that no further major decisions be made in the final 2 weeks without Cabinet
7 consultation.

8 Q Did he cite any particular decisions that he believed should have been the
9 product of consultation with the Cabinet?

10 A No. I think it was more general.

11 Q Did that idea go anywhere? Was that discussed, about some sort of
12 directive that no big decisions be made in the final 2 weeks without Cabinet consultation?

13 A I'm not aware that it went anywhere.

14 Q Did you do anything with that request or that opinion from Secretary Scalia?

15 A It was my opinion that that was a conversation that he needed to have with
16 Mark Meadows, but we appreciated his support, appreciated his concern, but that was
17 probably something, as far as the way that the Cabinet should be run, was more properly
18 directed toward Mark Meadows than toward me.

19 Q Do you know whether or not Secretary Scalia subsequently followed up with
20 the chief of staff, Mr. Meadows?

21 A I believe he did.

22 Q How do you know that?

23 A I don't. I believe -- I believe -- he told me he was going to. So I believe
24 that that transpired. And, at some subsequent point, he was disappointed that his
25 recommendation wasn't adopted. But whether or not he made that appeal directly to

1 Mark or to the President or somewhere else, I don't know.

2 Q Did you ever speak to Mr. Meadows about Secretary Scalia's request or
3 some kind of --

4 A I did not.

5 Q -- altered decisionmaking?

6 A I did not.

7 Q Okay. Did you convey that to the Vice President, Secretary Scalia's view
8 about the Cabinet needing to be involved in anything in the last 2 weeks?

9 A I did.

10 Q What was his reaction?

11 A He appreciated Scalia's friendship and Scalia reaching out. And he agreed
12 that that's probably something more properly directed toward Mark Meadows.

13 Q Okay. How about Secretary Pompeo, tell me about the conversation with
14 him.

15 A He was similar in that he wanted to make sure the Vice President was okay.
16 He indicated he was having I think separate conversations with Secretary Mnuchin, who
17 was traveling at the time. But his was more of a check-in and kind of a "would it be
18 appropriate for me to call Mike," and I assured him: Yeah, you should.

19 Q Did he express any concerns about White House decisionmaking, lack of
20 consultation, any concerns at all about the last -- either what happened on January 6th or
21 the last 2 weeks?

22 A My impression was that he took a more deliberate role with Mark in the last
23 couple weeks.

24 Q What do you mean by that?

25 A Coming alongside and offering guidance and ways to help finish the

1 administration.

2 Q With Mark Meadows or with the President?

3 A Mark Meadows.

4 Q Why Mr. Meadows as opposed to the President?

5 A I don't know.

6 Q What did he tell you about his intention to do that, the deliberate --

7 A He -- I'm just telling you that was my impression. I don't think that was
8 part of our conversation. Our conversation was, again, wanting to make sure the Vice
9 President was okay and expressing similar dismay about the events of January 6th, and
10 said that he'd been in touch with Secretary Mnuchin, and I think they were talking to
11 other Cabinet members.

12 Q Okay. Did he relay anything that Secretary Mnuchin had said to him or
13 views of Secretary Mnuchin?

14 A Not that I recall.

15 Q Okay. You indicated that you -- did you speak either to Secretary DeVos or
16 Secretary Chao, the two that did resign?

17 A I don't think so.

18 Q Did they speak to the Vice President?

19 A I don't believe Secretary Chao did. It's possible that Betsy DeVos did. I
20 don't recall that.

21 Q Do you have any -- did the Vice President tell you anything about
22 conversations he had with any of those four or other Cabinet members?

23 A No, not that I recall.

24 Q During any of those conversations that you had or you heard about, was
25 there any frustration expressed about the President's handling of the January 6th events,

1 the President's actions on January 6th?

2 A From whom?

3 Q From the Cabinet members.

4 A Well, sure. I think all that reached out were -- were disappointed and
5 frustrated.

6 Q What did they say, any of them in particular, about the President's action or
7 inaction on January 6th?

8 A They were simply disappointed in the way that the events went. They
9 wanted to make sure that Mike was okay. And they said -- I think Secretary Scalia had
10 the most concrete suggestion about a pathway forward, but I think the others were just
11 providing their sentiments.

12 Q I understand that this is an uncomfortable question and I apologize, but did
13 any of them specifically criticize the President for his actions or inaction that could have
14 altered the events of January 6th?

15 A I don't recall that.

16 Q Anyone criticize him directly in those conversations to you or the Vice
17 President?

18 A They may have. I don't -- I don't recall that. Again, I think that their focus
19 was really for the Vice President's well-being more so than anything else.

20 Q Okay. Did anyone else beyond the Cabinet reach out to the Vice President
21 or you in the days after January 6 with any discussion of that day and what occurred?

22 A Did anyone?

23 Q That's an overbroad question. Other -- any government officials.

24 A I think the Vice President received multiple calls from Members of Congress,
25 who expressed their admiration and support.

1 Q Do you remember any in particular who directly expressed their admiration
2 and support?

3 A I think Senator Lankford. I think Senator Scott, Senator Blunt. I'm
4 confident there were a handful of House Members too, but I just don't have that. I'm
5 sure there are phone logs that would give you those.

6 Q How about members of the military, generals or otherwise, any of them
7 reach out and express any perspective about January 6th to you or to the Vice President?

8 A Well, I think that the Vice President also viewed this as sort of the final
9 chapter of the administration, and so he was taking time to call Members himself to
10 thank them for their partnership over the 4 years. And so, in those conversations, some
11 of that was relayed back of just: Hey, I want you to know how proud we are of the way
12 that you handled.

13 But, sure. I mean, he called Leader McConnell to thank him for the 4 years of
14 partnership. He called several of the judicial confirmations to just wish them well.
15 He -- he called several members of our Cabinet to thank them for their partnership. He
16 called a couple world leaders. So he spent time, you know, in those last 10 days giving
17 thanks to those who worked with us.

18 Q Yeah. I completely appreciate that. I guess what I'm really focused on is
19 whether anyone in particular reached out to him or to you with a particular perspective
20 about the January 6th events, not in the context of a broader discussion at the end of the
21 administration.

22 A I'm sure there were. I just -- I'm not recalling those right now.

23 Q Okay. Any other discussion about the 25th Amendment that you
24 remember, any other specific conversations about it?

25 A There was plenty in the press, but there was not in our office.

1 Q Well, Vice President Pence actually issued a statement on January 11th
2 providing his perspective about it.

3 A Yes, he did.

4 Q He basically said he found it to be inapplicable to the circumstances of
5 January 6th.

6 A Yes.

7 Q How did that statement come about? Why did he write a letter to the
8 Speaker saying he would not invoke the 25th Amendment?

9 A Well, as I said, shortly after the initiated call, the Speaker and Leader
10 Schumer had their own press conference to call for it. So there were plenty of press
11 inquiries and pretty much every day more press inquiries about is the Vice President
12 going to do this. And I think that consistent with her own commission, he pointed out
13 the futility and why it was misplaced.

14 Q Moving on to another topic, do you remember any discussion about the
15 Insurrection Act, discussion of the invocation of the Insurrection Act before, on, or after
16 January 6th?

17 A No, not relative to anything around election.

18 Q I understand there are other contexts, but with respect to the election, the
19 events at the Capitol, any discussion?

20 A In respect to the election, no.

21 Q How about the events of --

22 A January 6th, no.

23 Q How about martial law, any discussions that you participated in?

24 A Not that I was a part of, no.

25 Q Okay. Do you remember General Flynn making some statements at some

1 point after the election about the military can rerun elections, can invoke martial law?

2 A I remember those press reports.

3 Q Were there any serious discussions that you had about that possibility --

4 A There were not.

5 Q -- inside the White House? No.

6 Did the events of January 6 change your personal relationship with the President?

7 A Probably. Unfortunately, probably so.

8 Q How so?

9 A Well, I think that there was well-reported questions that I'd been locked out
10 of the White House on the night of the 6th, but, you know, I -- I still look back and am
11 proud of a lot that we accomplished and enjoyed my opportunities to work with the
12 President.

13 Q Were you locked out of or banned from the White House as of January 6th?

14 A The morning of -- so we were there until, what, close to 4 a.m. on the 7th?

15 Q Yes.

16 A I went from there back to my office in the White House and had no problem
17 getting into the White House.

18 Q Okay.

19 A I had people come to me the next day or the day after and assure me that
20 there would be no lockout of the White House.

21 Q Why did they need to come and tell you that there would be no lockout of
22 the White House?

23 A Because I think it had been widely reported that I had been locked out of the
24 White House.

25 Q Did anyone ever convey to you the President's displeasure or that you

1 weren't welcome any longer in the White House?

2 A There were people that conveyed that, in the course of the events, that
3 there were some who instigated the President to suggest that Marc was responsible for
4 leading the Vice President on the path he took, and that that -- that caused him to
5 exclaim, and make sure he's locked out of the White House.

6 Q Okay.

7 A But I don't think that that was ever -- I wasn't there for that, so I'm giving
8 you secondhand. And I don't --

9 Q I understand.

10 A I'm telling you it was not acted on.

11 Q I know it's hearsay, but who were the people that you heard had put forth
12 that narrative to the President, that you were the one who led the Vice President to this
13 outcome.

14 A The way it was relayed to me is Peter.

15 Q Peter Navarro?

16 A [Nonverbal response.]

17 Q Okay. Would that surprise you if that were true, Peter Navarro did
18 demonize you, Mr. Short, as the reason the Vice President did what he did?

19 A As I said, Peter says lots of things. That wouldn't surprise me.

20 Q Okay. But the reality was that you weren't locked out, banned from the
21 White House?

22 A I was not locked out. I was not banned. I was back in the White House
23 the next -- that morning.

24 Q Did you continue to go to work in the White House?

25 A I continued to go in every day until January 20th.

1 Q Okay. Did you ever talk to the President again after January 6th, President
2 Trump?

3 A I have not.

4 Q The last conversation you had with him was the meeting about which you
5 won't be able to tell us much directly from January 5th, is that right? January -- yes.
6 That was the last time you spoke to him directly to this day?

7 A That I spoke would probably have been the 4th.

8 Q The 4th. I see, okay. No subsequent contact?

9 A On the 5th, I was on that call, but I don't recall speaking.

10 Q Okay. But, again, no -- not even in the last 2 weeks of the administration or
11 since then to this day have had any direct communication with him?

12 A Correct.

13 Q All right. There were efforts after the 6th to heal the breach, bring back
14 together the President and Vice President. Were you involved in any of those
15 discussions?

16 A Yes.

17 Q Tell me about that. Who was behind that or who talked to you about this
18 desire to heal the breach between those two men?

19 A Jared initiated a conversation and asked if the Vice President would be
20 willing to talk to the President.

21 Q Okay. He called you about that?

22 A I believe I went to his office. He asked to see me.

23 Q Okay. Tell me about that conversation with Mr. Kushner.

24 A What it was, he said, would the Vice President be willing to talk to the
25 President?

1 Q How long after the 6th did that take place, roughly?

2 A The 11th.

3 Q It was on the 11th, okay, so just 5 days later. And what was -- did you then
4 take that to the Vice President, consult with him about whether he was willing to do that?

5 A I responded to Jared that I think that belongs to the President to initiate. If
6 the President wants to see him, the President should ask for it.

7 Q Okay. Do you know whether that happened?

8 A Jared responded: That's what I'm doing.

9 Q "That's what I'm doing" meaning he's, on behalf of the President, making the
10 invitation?

11 A Correct.

12 Q I see. So it wasn't a direct outreach from the President to the Vice
13 President. It was Jared, as the agent, reaching out to you, as the gatekeeper?

14 A I leave those adjectives to you as to what our roles are.

15 Q Okay. Did a meeting take place?

16 A Yes.

17 Q Tell us about the circumstances of that.

18 A It was a one-on-one meeting in the Oval Office.

19 Q When did that take place?

20 A January 11th.

21 Q Okay. So there was then a one-on-one meeting between the President and
22 the Vice President in the Oval Office on January 11th?

23 A Yes.

24 Q Were you present or not?

25 A It was a one-on-one meeting.

1 Q Of course. Bad question. Did you get a readout about the meeting from
2 the Vice President?

3 Mr. Flood. That's a yes or no.

4 The Witness. Yes.

5 BY MR. [REDACTED]

6 Q Was it your impression that the breach remained or the breach had been
7 modified, lessened in any way?

8 A I believe it was a conciliatory conversation.

9 Q Okay. Was that the only conversation of which you're aware between the
10 President and the Vice President between January 6th and the end of the administration?

11 A No. I believe they spoke a couple more times on the phone.

12 Q About concluding the business of the administration?

13 A Yes.

14 Q Okay. Do you know whether or not there was any discussion in that
15 January 11th conversation or otherwise about the events of January 6th, what occurred
16 on January 6th?

17 Mr. Flood. I think -- I'm going to ask you not to respond to that. I don't see a
18 way to do it, [REDACTED], without giving away substance.

19 Mr. [REDACTED] I understand.

20 BY MR. [REDACTED]

21 Q I want to end, and then, before I turn it over to my colleagues, with more
22 reporting. There was -- in the "Betrayal" book, Jon Karl actually recorded a conversation
23 with the President about his concern, or lack thereof, for the Vice President's safety.
24 And I'll just read it to you.

25 Mr. Karl asked the President, this was in March of 2021: Were you worried for

1 him, about him -- meaning Vice President Pence -- during that siege? Were you worried
2 about his safety?

3 The President -- this is on tape -- says: No, I thought he was well protected, and I
4 had heard he was in good shape. No, because I had heard he was in very good shape.

5 Karl said: Because you heard those chants. That was terrible. I mean, you
6 know, those --

7 The President says: He could have -- well, the people were very angry.

8 And Karl says: They were saying "hang Mike Pence."

9 And Trump then says: Because it's common sense, Jon. It's common sense
10 that you're supposed to protect. How can you if you know a vote is fraudulent, right?
11 How can you pass on a fraudulent vote to Congress?

12 Did you hear that tape like the rest of America and understand the President's
13 words about his concern for the Vice President?

14 A I read about it. I did not hear it.

15 Q And what's your reaction to that?

16 A I think that -- I think that in conversations subsequent to the 6th the
17 President expressed concern for the Vice President and his health. I think sometimes
18 there are different audiences and different messages that he's trying to reach. So I
19 didn't -- I didn't probably put too much weight into what he said to Jon Karl.

20 Q I see. Okay. That's fair enough.

21 Mr. [REDACTED] Let me stop and turn it over to, first, members.

22 Ms. Cheney, do you have some followup?

23 Ms. Cheney. I do. Thanks very much, [REDACTED].

24 Marc, can you talk about -- you mentioned that Secretary Scalia called you and
25 that he had the most concrete plan. Could you give us a little bit more detail on that?

1 The Witness. There really isn't that much more, Congresswoman. I think he,
2 again, said that he felt there should be a Cabinet-wide consensus on any further actions
3 from the administration and wanted to make a plea that there be multiple Cabinet
4 meetings in the closing 2 weeks.

5 And, you know, I presume he took that overture to the West Wing, and it was not
6 acted on, to the best of my knowledge. But I think that that was his position.

7 Ms. Cheney. And why did he say that that should happen?

8 The Witness. I think he felt, as he stated, that the Cabinet was -- had not been
9 consulted in the closing months of the administration. And he certainly I think felt most
10 acutely about the events leading up to and happening on January 6th.

11 Ms. Cheney. Did he tell you about any of the Cabinet officials he consulted with?

12 The Witness. He had told me he had spoken to Secretary DeVos. He indicated
13 there were others, but I don't think he enumerated those.

14 Ms. Cheney. Did he tell you he had spoken with Secretary of Veterans Affairs
15 Wilkie?

16 The Witness. Not that I recall, no.

17 Ms. Cheney. And did you speak directly with Secretary DeVos?

18 The Witness. I don't recall. I mean, I spoke to Secretary DeVos many times
19 during the administration, but I don't recall a specific conversation after the 6th.

20 Ms. Cheney. She didn't call you to tell you that she was resigning?

21 The Witness. Whether she did or her chief of staff did, I don't recall.

22 Ms. Cheney. But did one of them?

23 The Witness. I believe that we were given notice before it happened. I mean,
24 it happened pretty quickly, as far as her resignation letter.

25 Ms. Cheney. Did she or her chief of staff tell you why?

1 The Witness. I think they were obviously pretty upset about the events of
2 January 6th. That was the timing.

3 Ms. Cheney. Did you talk to Secretary Chao?

4 The Witness. I don't recall speaking to Secretary Chao after the 6th.

5 Ms. Cheney. Did you speak to Pat Cipollone during this period about the 25th
6 Amendment?

7 The Witness. I don't recall speaking with Pat myself. I'm probably confident
8 that Greg was in communication with White House Counsel's Office. So I think our
9 offices were in touch.

10 Ms. Cheney. Did you speak to Pat Cipollone about John Eastman's plans?

11 The Witness. I recall conversations with Pat Cipollone about John Eastman's
12 plans after January 6th.

13 Ms. Cheney. And tell us about those conversations.

14 The Witness. Pat expressed his admiration for the Vice President's actions on
15 the day of the 6th and said that he concurred with the legal analysis that -- that our team
16 had put together to reach that point.

17 Ms. Cheney. Did you talk to him at all or get that input prior to the 6th?

18 The Witness. I don't recall much of that input prior to the 6th.

19 Ms. Cheney. Do you recall any of it?

20 The Witness. I recall a lot of it after the 6th.

21 Ms. Cheney. Do you recall any of it prior to the 6th?

22 The Witness. Well, certainly we met with Pat in the context of the Gohmert and
23 Kelli Ward lawsuit. And so we had broad conversations, but I don't remember Pat being
24 in the conversations that we had, again, in the Oval or elsewhere, about -- about the Vice
25 President's role that day.

1 Again, I do think that Pat Philbin and Greg Jacob had a longer standing close
2 relationship. So our offices were often in communication with each other, and I do
3 believe they spoke frequently, but I -- as I said, I remember many offering thanks after the
4 6th.

5 Ms. Cheney. And did you speak with Pat Cipollone about Jeff Clark?

6 The Witness. Not that I recall. Again, I don't recall Jeff Clark -- I know he signed
7 the response to the lawsuits, but, again, it was my understanding that that's because
8 that's just the title of the role he had. He was not really in the deliberations I think Greg
9 had with DOJ either.

10 Ms. Cheney. Did you speak at all to Eric Herschmann about Eastman?

11 The Witness. Eric would have -- we would have spoken at some point.
12 Eric -- Eric was one that came by on January 7th to say: Thank you and thank you for the
13 role the Vice President did; he handled it exactly right.

14 Ms. Cheney. Did you speak with Eric Herschmann before January 6th about the
15 Eastman memos or proposal?

16 The Witness. Not specifically, no.

17 Ms. Cheney. Did the White House Counsel's Office advise the President that
18 John Eastman's analysis was wrong?

19 The Witness. I don't know that.

20 Ms. Cheney. Did you speak to Eric Herschmann about the 25th Amendment?

21 The Witness. I don't recall that, no.

22 Ms. Cheney. Did you speak to Pat Philbin about the 25th Amendment?

23 The Witness. I don't recall that, but, as I said, I believe that Greg and Pat
24 probably were in communication.

25 Ms. Cheney. And tell us about your conversation with Secretary Pompeo about

1 any of the aftermath of January 6th.

2 The Witness. Again, I think that the Secretary's primary concern was for the
3 well-being and safety of the Vice President. And I think he was just looking more for is it
4 okay if I -- if I call him. I mean, it was obviously a long night.

5 And so I think they had their own conversation. But he just communicated
6 a desire to make sure that the Vice President was well and I think wanted to be helpful
7 moving forward, but I think everybody was trying to figure out exactly what that would
8 look like.

9 Ms. Cheney. Did you have any discussions in this period of time about landing
10 the plane, about the importance of getting to the 20th?

11 The Witness. Well, sure. I guess I think we -- we'd been having those
12 conversations for weeks before January 6th. So -- so yes.

13 Ms. Cheney. So did January 6th give you any increased concern about the
14 importance of getting to the 20th?

15 The Witness. I think it did, but I also think, Congresswoman, there was a sense
16 quickly after the 6th of everybody being on board with that mission.

17 I mean, I had had some conversations with Tina Forney with the transition prior to
18 that, and -- but I think, you know, at that point, Mark had become more clear about
19 wanting a whole White House cooperation with the incoming administration in the final 2
20 weeks. And so I think that all indications were that the final 2 weeks would be less
21 eventful and dramatic.

22 Ms. Cheney. Did you during this period have any discussions with Sean Hannity?

23 The Witness. I don't think I did during those final 2 weeks.

24 Ms. Cheney. Did you before the 6th?

25 The Witness. Not that I recall.

1 Ms. Cheney. Any conversations about the extent to which the Vice President
2 was going to have an important role in ensuring stability going forward?

3 Mr. Flood. We'd like to talk for a second.

4 Mr. [REDACTED]. Of course.

5 [Discussion off the record.]

6 Mr. Flood. Conversations with the press are not on the topic list. So my view
7 and the guidance I intend to give Mr. Short, which I guess he's hearing for the first time, is
8 this: I'm going to ask him to divide in his mind conversations of the sort that all chiefs of
9 staff, nearly everyone in this room at some point for some of us, every day of our lives
10 talk to the press for reasons of communicating information, learning information, et
11 cetera.

12 There's another category in which journalists who become friendly or friends call
13 and offer unsolicited advice, express opinions, and generally view themselves as cool
14 Washington insiders.

15 You may answer any question that falls into the second category, but the first
16 category, not being on the topic list, I want to reserve and talk to you about after.
17 Okay?

18 Mr. [REDACTED]. Okay. Appreciate that.

19 Mr. Flood. So, if Congresswoman Cheney's question falls in that second
20 category, fine. If not, let's reserve and figure out how to do this. Okay.

21 Ms. Cheney. I'm sorry. Could I get some clarification on that, Emmet? I was
22 not aware that we had made any commitment to you that we were limiting ourselves in
23 any way with respect to asking about conversations with the press. So I'm wondering
24 exactly what this particular objection is.

25 Mr. Flood. Sure. There is, of course, no affirmative statement or, you know,

1 written or otherwise, agreement between myself and staff about conversations with the
2 press.

3 I did, however, on several occasions, ask for a list of topics that we would be
4 talking about. And conversations with the press were not on the list. And it follows
5 from that that I haven't prepared Mr. Short for any and all of the conversations he might
6 have had with the press, which I will say I think -- and you can correct me if I'm wrong -- in
7 principle could be a very, very substantial number of conversations, given his role as chief
8 of staff to the Vice President of the United States.

9 And so, on that basis and because he was not alerted to it and he's not been
10 prepared for it, he has no guidance, no guidelines, you know, no barriers by which to
11 answer it. So it's obviously not a question of attorney-client privilege or another formal
12 privilege, but it's not a grand jury proceeding. We were not noticed about this.

13 And I just think I'd rather have an opportunity to consult with him at length before
14 discussing press questions, unless they are of the sort where someone, you know, calls
15 with friendly advice or, you know, here's an observation kind of thing. But if it's a
16 substantive communication of some sort, you know, I'm going to ask him not to respond
17 until we can work out some ground rules.

18 So I hope that clarifies, Congresswoman.

19 Mr. [REDACTED] Yeah. Ms. Cheney, let me just jump in just to amplify what
20 Emmet said. We had discussions in advance about general subject matters that we
21 intended to cover. And we proceeded by flagging those subject matters, getting some
22 advance attorney-proffered information.

23 But, Mr. Flood, to be clear, we talked about categories of information, not sources
24 of discussions. It was not, well, we'll talk about conversations with the Vice President
25 but not the press. It was here are six or seven general topic areas that we're interested

1 in developing, regardless of source.

2 So our focus was on here are relevant subject matters, not so much the sources of
3 information, if that makes sense.

4 Mr. Flood. Yes. And I don't think I disagree with Mr. [REDACTED] characterization,
5 except I will say that conversations with the press happen a lot, and everybody
6 participating in this procedure knows that they happen, all right? And everyone in
7 Washington with minimally functional antenna knows that they happen.

8 And had I understood that that was a topic to be discussed, it was my expectation
9 and it formed part of my preparation for my client, that we would have been told we
10 intend to ask Mr. Short about, you know, conversations he may have had with the press.

11 I didn't get any notice of that sort. He's consequently not prepared. And I
12 don't want to open a Pandora's box for which I have simply not prepared him. So the
13 best I can do --

14 Ms. Cheney. We can circle back to that.

15 Mr. Flood. Yeah. No, if we need to, I think we should.

16 Ms. Cheney. Well, I think we will need to.

17 So I'm not totally clear on your interpretation of exactly which questions Mr. Short
18 is prepared to answer in this regard.

19 The question that I asked was whether he had any conversations after January 6th
20 about the importance of maintaining stability through January 20th, and I think I asked
21 specifically about with Mr. Hannity.

22 Mr. Flood. Do your best to answer. You've heard sort of the line I tried to go.
23 Do your best to answer.

24 The Witness. I think that Sean and the Vice President have a longstanding
25 friendship that goes back to days as talk radio show hosts together. So Sean usually

1 wouldn't call through me. He would call directly to the Vice President.

2 I recall one conversation with Sean in which he was, again, more of a wanting to
3 check on well-being and an assertion that the Vice President handled the 6th the correct
4 way and -- and assurances that he had conveyed that to others in the White House, that
5 that's what the Vice President's role was ahead of January 6th.

6 Ms. Cheney. Thank you. Were you aware of any discussions about pardons
7 after January 6th?

8 Mr. Flood. I can read it into the record. I have two full pages single-spaced of
9 topics, and there was nothing about pardons. And, Congresswoman, I can only prepare
10 my client so much and for certain things.

11 And so, Marc, I'm going to instruct you if you were aware of anything about
12 pardons that touches in any way on the events of January 6th, please answer the
13 question, and limit your answer to material about pardons that relates somehow, in your
14 judgment, to January 6th.

15 And, if you have a pardon awareness that's not January 6th-related, I'll ask you not
16 to respond until we can work out new parameters. Okay?

17 The Witness. I'm not aware of any pardon conversation relative to January 6th
18 that our office would have been a part of.

19 Ms. Cheney. Are you aware of any pardon conversation relative to January 6th?

20 The Witness. Not to January 6th.

21 Ms. Cheney. Are you aware of any pardon conversations having to do with
22 Members of Congress?

23 The Witness. No, ma'am.

24 Ms. Cheney. Thank you. I appreciate it.

25 Mr. [REDACTED] Ms. Cheney, thank you.

1 Mr. Raskin or --

2 Mr. Raskin. Thank you.

3 Mr. [REDACTED] Go ahead.

4 Mr. Raskin. Mr. Short, forgive me. I had to step away to do something else for
5 a few moments, so I hope I'm not repeating anything.

6 But, on the 25th Amendment, were there any formal conversations that took
7 place with the Cabinet as a whole on the 25th Amendment?

8 The Witness. No, sir, there were not.

9 Mr. Raskin. And those individual conversations that took place, were those
10 between the Vice President and Cabinet members, or that was you and Cabinet
11 members?

12 The Witness. They were both, but I am not aware of any conversations in which
13 Cabinet members made a recommendation to the Vice President to invoke the 25th
14 Amendment.

15 Mr. Raskin. Okay. And when -- the day before impeachment took place, there
16 was a vote by the House to urge the Vice President to convene the Cabinet for the
17 purposes of discussing activation of the 25th Amendment in section 4.

18 And was there discussion among the Cabinet and Vice President at that point on
19 how to react to that, or was that a judgment that was made solely by the Vice President
20 and his staff?

21 The Witness. I don't recall a conversation with the Vice President/Cabinet about
22 that. Forgive me, Congressman, but perhaps in a way I probably editorialize too much
23 that our view was that that was more of a political gambit by -- by the leadership, the
24 Democrat leadership, and Members of Congress for many reasons, including the reality
25 that -- that something of that nature requires a President to have the ability to respond to

1 Congress in about a 3-week period of time, and there was literally 14 days left. And
2 none of us had the impression that the President was mentally incapacitated.

3 So we were aware of those efforts, but, candidly, we viewed them more as politics
4 than something that was genuine.

5 Mr. Raskin. Okay. Well, then maybe you and I can discuss that at some other
6 point. I think you will recall that there was tremendous concern and consternation
7 about what would happen in the next 14 days, given the President's actions on January
8 6th itself.

9 But, in any event, but on that point, you described different people in passing as
10 being upset about what had happened on January 6th. And I'm just wondering if you'd
11 be willing to characterize your own state of mind and reaction and that of the Vice
12 President.

13 The Witness. Well, I would probably be more comfortable characterizing mine.
14 I think that, for me, I think there was -- there was a sense of disappointment and believing
15 that, candidly, from our perspective, a lot had been accomplished over 4 years. And
16 there was a track record on taxes and the economy and immigration, on judges, on
17 standing for life, on foreign policy, that I think many of us are proud of.

18 I think that January 6th was a sad final chapter to the administration. I think it
19 was a tragic day. And I think that, you know, as I shared with some here before in the
20 aftermath of that, in the final 2 weeks, the Vice President spent significant time calling
21 members of the Capitol Police, calling the chaplain, calling those who had helped that day
22 just to thank them.

23 He penned personal letters to many of the staffers on the Hill, including those
24 who had the wherewithal to pull the slate of certificates off the floor when the rioters
25 came into the Capitol.

1 And so, you know, I think that he expressed a lot of gratitude for the people who
2 had heroic actions on the day of the 6th. I think that, you know, for me, I think there
3 was a sense that there was a lot that had been accomplished in 4 years, and that day was
4 a tragic stain on the 4 years.

5 Mr. Raskin. Yeah. All right. Great. Well, thank you for your testimony.
6 I'll yield back to you.

7 The Witness. Thank you, Congressman.

8 Mr. [REDACTED] Thank you, Mr. Raskin.

9 Mr. Aguilar, anything for you?

10 No? Okay. All right.

11 How about here? [REDACTED] or [REDACTED], any further questions?

12 BY MR. [REDACTED]

13 Q Did President Trump use a cell phone when he was President?

14 A Sure.

15 Q Do you know whether it was a government-issued cell phone versus a
16 personal cell phone?

17 A I don't know.

18 Q Do you have the phone number for his cell phone that he used when he was
19 President?

20 A I do not.

21 Q Do you know whether he sent or received texts on a cell phone?

22 Mr. Flood. Yeah, listen. If you lay a foundation for how this relates to January
23 6th, I'll allow it to continue. Otherwise, I'm going to instruct him not to respond on the
24 basis that it's outside the scope.

25 Mr. [REDACTED] Sure. Obviously, it's well-known the committee is interested in

1 identifying potentially relevant records from the events of January 6th itself. And so
2 knowing whether or not he had a cell phone that he sent or received texts would tell us
3 whether or not we should pursue such texts.

4 Mr. Flood. Assuming that [REDACTED] continues to ask you questions, answer the
5 questions unless I direct you otherwise.

6 BY MR. [REDACTED]

7 Q Do you know whether the President sent or received texts from a cell
8 phone?

9 A I believe he did.

10 Q And do you know whether he did it himself versus having a staffer who had
11 their own cell phone send them on his behalf?

12 A I believe probably 9 out of 10 times or more he asked Dan to do that.

13 Q Dan Scavino?

14 A Uh-huh.

15 Q And we're talking about texts, not tweets, to clarify.

16 A Yeah. I'm not sure. I'm not sure if he was texting.

17 Q Okay. You can only answer as to what you know. I don't have anything
18 else.

19 Mr. [REDACTED] Okay. [REDACTED], anything else?

20 Ms. [REDACTED] Thank you.

21 Ms. Cheney. Mr. [REDACTED]

22 Mr. [REDACTED] Please, Ms. Cheney, go ahead.

1 [6:01 p.m.]

2 Ms. Cheney. So, Marc, I'm sorry. Earlier when I was asking about the press, we
3 had that discussion, I think I ended up narrowing it only to a question about Sean Hannity.
4 And so I wondered if, to the extent you can, could you indicate whether you had
5 discussions of a similar nature after January 6th or -- and also after the election with
6 other members of the press.

7 The Witness. I did not.

8 Ms. Cheney. Did you have discussions with Laura Ingraham?

9 The Witness. I did not.

10 Ms. Cheney. Okay. Thank you.

11 Mr. [REDACTED] Okay.

12 So, I think, Mr. Short, that concludes us for the day. As we've talked about
13 with -- as I've discussed with your counsel, we're going to take back this record, confer
14 about the specific contours of the privilege objection. I'm not sure that we'll need you
15 for anything else. I understand that you are likely anxious to complete any further
16 engagement with the committee. I don't take that personally. We get that a lot in
17 here.

18 That said, we have important work to do and may need to come back to you for
19 more discussion on some of these areas. I will stay in close touch with your counsel
20 about that. Again, I hope not. We need to keep the deposition open to facilitate those
21 discussions, so the record will not be closed even though we're finishing today. I'll just
22 tell you it's our intention, though, to complete our work without having to bring you back.

23 The Witness. Okay.

24 Mr. [REDACTED] Do you have anything that we haven't asked you that you think is
25 relevant that you think we should know? I'll give you a chance to say anything else,

1 amplify anything or say anything more that you think is important for the committee to
2 know.

3 The Witness. I think that it's my understanding the committee will be talking to
4 Greg. And, as I said to you -- I think it's been uncovered several times here -- he
5 provided outstanding service to our office and the country, and so I'm proud of the way
6 that, despite, I think, a lot of challenges that day, the way the Vice President and his team
7 handled it.

8 Mr. [REDACTED] I appreciate that. Okay. Anything else?

9 The Witness. No.

10 Mr. [REDACTED]. Okay.

11 Mr. Flood. [REDACTED], is a consequence of the keeping open of the record that we
12 won't see a transcript of today until some unknown post-close-the-record date, or can we
13 look at it, you know, in the reasonably near future?

14 Mr. [REDACTED]. Yeah, that's a good question. Yeah. I don't believe that the
15 keeping of it open delays your review of the transcript.

16 Mr. Flood. Okay.

17 Mr. [REDACTED]. It would be my intention to let you review, understanding that it's
18 still open.

19 Mr. Flood. Okay. And you all -- you'll just let us know when it's available.

20 Mr. [REDACTED]. Yeah. We make it available in sort of an electronic reading room
21 for you to review and make any corrections, make sure we got names and spellings
22 correct, that sort of thing.

23 Mr. Flood. Very good.

24 Mr. [REDACTED]. Okay. All right.

25 Mr. Flood. One last thing.

1 Mr. [REDACTED] Yes.

2 Mr. Flood. I'm sure Mr. Short feels this way, but on his behalf and on Mr. [REDACTED]
3 and myself's behalf, we're grateful for the consideration and respect and highly
4 professional manner in which you all have been doing your business, so we thank you for
5 that.

6 Mr. [REDACTED] I appreciate that very much. Thank you. Coming from someone
7 like you, Mr. Flood, that means a lot. Thank you.

8 Mr. Flood. The same to you.

9 Mr. [REDACTED] Absolutely.

10 All right. We can go off the record. Thank you.

11 [Whereupon, at 6:06 p.m., the deposition was recessed, subject to the call of the
12 chair.]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date